



# Home and Community-Based Services Settings Final Rule

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# Provisions of the Final Rule

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# Overview of the Final Rule

- **CMS Published:** January 16, 2014
- **Effective Date:** March 17, 2014
- **CMS Final Rule intent:**
  - Maximize the opportunities for participants in HCBS programs to have access to the benefits of community living.
  - Allow participants to receive services in the most integrated setting.

# Overview of the Final Rule

- CMS is moving towards defining settings by the nature and quality of individual's experiences.

Rule Prior to March 17, 2014	Rule Effective March 17, 2014
Setting Requirements: <ul style="list-style-type: none"><li>• Location</li><li>• Geography</li><li>• Physical Characteristics</li></ul>	Setting Requirements: <ul style="list-style-type: none"><li>• Location</li><li>• Geography</li><li>• Physical Characteristics</li><li>• <u>Outcome Oriented</u></li><li>• <u>Person-Centered</u></li></ul>

# HCBS Settings Characteristics

- All home and community-based settings must meet certain qualifications. The setting must:
  - Be integrated in and support full access to the greater community;
  - Be selected by the individual from among setting options;
  - Ensure individual rights of privacy, dignity and respect, and freedom from coercion and restraint;
  - Optimize autonomy and independence in making life choices; and
  - Facilitate choice regarding services and who provides them.

# HCBS Settings Characteristics

- Additional requirements for provider-owned or controlled home and community-based residential settings:
  - The individual has a lease or other legally enforceable agreement providing similar protections;
  - The individual has privacy in their unit including lockable doors, choice of roommates and freedom to furnish or decorate the unit;
  - The individual controls his/her own schedule including access to food at any time;
  - The individual can have visitors at any time; and
  - The setting is physically accessible.

# Allowed Modifications

- Any modification to requirements for provider-owned home and community-based residential settings must be:
  - Supported by a specific assessed need.
  - Justified in the person-centered service plan.

# Excluded Settings

- The final rule excludes certain settings from providing Medicaid home and community-based services.
- These excluded settings include:
  - Nursing Facilities
  - Institutions for Mental Disease
  - Intermediate Care Facilities for Individuals with Intellectual Disabilities
  - Hospitals



# Settings Transition Plan Requirements

- **Transition Plan:**
  - States are required to submit a transition plan to CMS that details how they will bring impacted services and settings into compliance with the Final Rule.
  - CMS may approve transition plans for a period of up to five years, as supported by individual state's circumstances.

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# South Dakota Medicaid Next Steps

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# What's Next?

- South Dakota Medicaid is required to submit a transition plan for HCBS Settings in South Dakota to CMS by **March 17, 2015.**

Settings  
Assessment

Draft Transition  
Plan

Public  
Comment  
Period

Submit  
Transition Plan  
to CMS

# Previous Communications & Webinars

## Provider Communication

- **Provider Mailing:** August 25
- **Emails:** August 26 & 27

## Webinars

- **August 29 & September 2**
- **September 23 & 24**
- Slides and Recorded Presentation Available on DSS website:  
<http://dss.sd.gov/sdmedx/hcbs>

# Draft Transition Plan

- Providers complete self-assessments.
- Identify settings/areas already in compliance with Final Rule.
- Identify settings/areas where remedial steps will be necessary for compliance.

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graph TD; A[Settings Assessment] --> B[Draft Transition Plan]; B --> C[Public Comment Period]; C --> D[Submit Transition Plan to CMS];
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Settings Assessment

Draft Transition Plan

Public Comment Period

Submit Transition Plan to CMS

# Draft Transition Plan

- Identify remediation needed for compliance.
- Identify barriers & hardships.
- Help CMS understand landscape in South Dakota.
- Garner additional feedback from stakeholders through public comment period.



Settings  
Assessment



Draft Transition  
Plan



Public  
Comment  
Period



Submit  
Transition Plan  
to CMS

# Settings Assessment

- Provider Self-Assessment
- Online Survey Monkey
- 57 Questions
- Mandatory Completion by: **October 24, 2014**
- One assessment must be completed for each individual HCBS residential address/location

# 7 Key Concepts

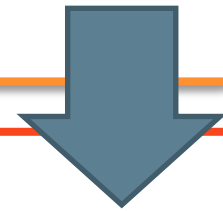
- Facility Location
- Dignity and Respect
- Privacy
- Physical Accessibility
- Autonomy
- Community Integration
- Living Arrangements



# Assessment Data

## 1. Aggregate Data by Waiver

- Sort by Waiver
- Analyze Key Concepts
- Identify Individual Action Items



## 2. Determine Remediation Strategy

- CMS 86% HCBS Quality Assurance Threshold
- Individual Remediation
- Statewide Remediation



## 3. Define Remediation Steps in Transition Plan

- Policy Changes
- Provider Input

# Resources

- CMS:

<http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Long-Term-Services-and-Supports/Home-and-Community-Based-Services/Home-and-Community-Based-Services.html>

- South Dakota Medicaid:

<http://dss.sd.gov/sdmedx/HCBS>

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# Questions?

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