Home and Community Based Services Settings Final Rule
Provisions of the Final Rule
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.

<table>
<thead>
<tr>
<th>Rule Prior to March 17, 2014</th>
<th>Rule Effective March 17, 2014</th>
</tr>
</thead>
<tbody>
<tr>
<td>Setting Requirements:</td>
<td>Setting Requirements:</td>
</tr>
<tr>
<td>• Location</td>
<td>• Location</td>
</tr>
<tr>
<td>• Geography</td>
<td>• Geography</td>
</tr>
<tr>
<td>• Physical Characteristics</td>
<td>• Physical Characteristics</td>
</tr>
<tr>
<td></td>
<td>• <strong>Outcome Oriented</strong></td>
</tr>
<tr>
<td></td>
<td>• <strong>Person-Centered</strong></td>
</tr>
</tbody>
</table>
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.
South Dakota Medicaid
Next Steps
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.
Draft Transition Plan

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

- DSS will host a second provider webinar in September 2014 to deliver detailed information about the Provider Self-Assessment.

- Providers must complete the Provider Self-Assessment following the September webinar.
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/sdmedex/HCBS
Questions?

For more information, please contact Sarah Aker in the Division of Medical Services

Sarah.Aker@state.sd.us

(605) 773-3495
Thank You

We appreciate your time today and look forward to working with you to ensure individuals served by South Dakota’s HCBS programs continue to receive quality supports and services in the community.