Home and Community Based Services

The Home and Community Based Services (HCBS) Final Rule

In January 2014 the Centers for Medicare and Medicaid Services (CMS) announced a Final Rule on HCBS. HCBS are Medicaid services for people with disabilities to help them live in their own homes and communities. The rule requires that states take steps to ensure that services and supports provided under the HCBS waivers are consistent with the values of the final rule. These values include

- Improve individuals access to the community
- Support individuals in making decisions about their lives
- Increase individuals voice in determining the services they want and who they want to provide those services.
- Build upon individuals rights to privacy
- Ensure that individuals have full access and freedom of movement within their homes and in their communities.

HCBS Assessment Process

- Survey Providers and Participants
 - If Providers want to continue to receive Medicaid dollars for HCBS services provided they are required to complete the survey.
 - The surveys will be administered online through the online survey system, Qualtrics, via your email address. If a provider legitimately does not have an email address the survey can be done over the phone. The survey email invitation provides a unique link for each survey. A survey link cannot be used more than once or reused. However, the provider can forward the link to the appropriate staff to complete the survey.
 - The next round of surveys for the b3 services will be sent out July-August 2017.
 Providers will have until November 2017 to complete surveys.

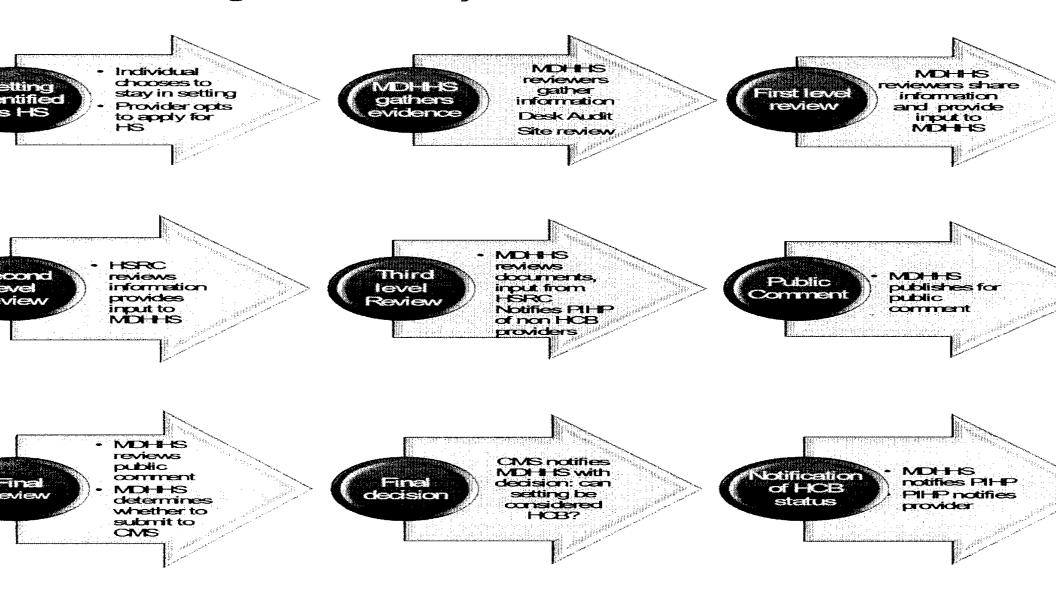
HCBS Assessment Process (Cont.)

- Collect and Analyze Data for Compliance with Rule
 - MI-DDI will summarize the survey results and post the information at its webpage (https://ddi.wayne.edu/hcbs). The results are expected to be available in early 2018. The findings from previous surveys are posted on the website.
 - Filter those that meet criteria for Heightened Scrutiny.
- Notices will be sent providers to signify where they are out of compliance.
- Providers will review and develop Corrective Action Plans (CAPs) to identify how they plan to come into compliance with the rule.
- PIHP will accept or deny CAP. If accepted the provider will be monitored for follow up of CAP through resurvey and site visits.
- Provider will be HCBS compliant or begin process of transitioning consumers to a compliant setting.

Heightened Scrutiny Process

- The Heightened Scrutiny process will begin for those who, by their answers on the surveys, are assumed not to be Home and Community Based. These providers will have to submit evidence to prove that they are HCB if they would like to continue to provide HCB services and supports to individuals.
- HS is broken up into two main categories on why the setting appears to not be HCB:
 - Institutional
 - Isolation
- MDHHS will decide whether an identified setting does have characteristics of HCB despite the appearance that is does not.
- Providers will need to submit evidence to MDHHS for review then to Centers for Medicaid and Medicare Services (CMS) who will make the final decision of whether a setting can be considered HCB or not.

HHS/BHDDA Heightened Scrutiny Process



The setting is located: In the same building as a publicly or privately owned facility that provides treatment –OR
On the grounds of or immediately adjacent to a public institution

What the evidence must demonstrate:

There is a meaningful distinction between the facility or institution and the HCBS setting such that the setting is integrated in the community and supports full access for individuals receiving HCBS

Why is the setting presumed not to be home and community based?

(Institutional)

Evidence Table Heightened Scrutiny

Table 1 Institutional

How the evidence can demonstrate this:

Interconnectedness between the facility and the HCBS setting, including staff and finances does not exist or is minimal. Residential license status-zoning requirements. Documentation that supports the existence of separation between the institution and home; financial and administrative

Any facility /institution staff that are occasionally assigned to support HCBS staff have the same training and qualifications. Staff qualifications that indicate training in HCB services and support. Evidence of different staff for each location or cross trained.

Participants in the setting do not have to rely primarily on transportation or other services provided by the facility or institution, to the exclusion of other options. Evidence that residents do not rely primarily upon institution staff for transportation

The HCBS setting and facility have separate entrances and signs (if setting is located within a facility) *Photographs of residence- evidence of separate entrances and signage*

The setting is integrated in the community to the extent that a person or persons without disabilities in the community would not associate the setting with the provision of services to people with disabilities. *Photographs of residence.*Evidence that the setting is in the community among other private residences.

The individual participates regularly in typical community activities outside the setting to the extent that the individual desires. Such activities do not include only those organized by the provider agency specifically for a group of individuals with disabilities and /or involving only paid staff. Evidence that residents are encouraged and supported to engage in activities in the larger community; individual schedules, progress notes etc.

Services to the individual, and activities in which the individual participates, are engaged with the broader community. Evidence that residents are encouraged and supported to engage in activities in the larger community; individual schedules, progress notes etc. from most recent 30 day period

The setting appears to have:

The effect of isolating individuals receiving home and community based services (HCBS) from the broader community of individuals not receiving HCBS

What the evidence must demonstrate:

The setting does not isolate participants from the broader community of individuals not receiving HCBS.

Why is the setting presumed not to be home and community based?

(Isolation)

Evidence Tables Heightened Scrutiny – Isolation

Table 2

How the evidence can demonstrate this:

The setting is integrated in the community to the extent that a person or persons without disabilities in the same community would consider it a part of their community and would not associate the setting with the provision of services to persons with disabilities. Photographs of residence. Individuals receiving HCBS live/receive services in the same area of the setting as individuals not receiving Medicaid HCBS. The setting is in the community among other private residences not providing services to HCBS participants exclusively.

The individual participates regularly in typical community life activities outside of the setting to the extent the individual desires. Such activities do not include only those organized by the provider agency specifically for a group of individuals with disabilities and/or involving only paid staff; community activities should foster relationships with community members unaffiliated with the setting .Evidence that: individuals come and go at will, that visitors have been present at regular frequencies, the setting is in the community among other private residences not providing services to HCBS participants exclusively. Individual participants have varied activities based upon their interests and abilities. Individuals have access to materials to become aware of activities occurring outside of the setting?

Services to the individual and activities in which the individual participates, are engaged with the broader community. Individual schedules that demonstrate community activities apart from the provider or other HCBS participants. Evidence of transportation options that do not rely solely on paid supports. Progress notes or other documentation that the participant has been involved in community activities recently. Evidence that visitors have been present at regular frequencies

Overview of Remediation Process

- Full Compliance on Survey.
 - Ongoing Monitoring.
- Answers to questions on Survey show out of compliance but can come into full. compliance
 - Develop Correct Action Plan.
- Presumed setting is seen as not Home and Community Based.
 - Heightened Scrutiny Review.
- Cannot/Refuse to come into compliance.
 - Transition individuals from the setting to an HCBS compliant setting.

Resources

- MDHHS
 - http://www.michigan.gov/mdhhs/0,5885,7-339-71547_2943-334724--,00.html
- MI-DDI
 - https://ddi.wayne.edu/hcbs

Contact for HCBS Questions:

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Questions?

