

Office of Behavioral Health

Coordinated System of Care (CSoC) Waiver

HOME AND COMMUNITY-BASED SERVICES SETTING RULE

SUMMARY

The Centers for Medicare & Medicaid Services (CMS) has issued regulations that define the settings in which it is permissible for states to pay for Medicaid home and community-based services (HCBS), like the Coordinated System of Care (CSoC) Waiver.

The purpose of these regulations is to ensure that individuals receive Medicaid HCBS in settings that are integrated in and support full access to the greater community. This includes opportunities to seek employment and work in competitive and integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree as individuals who do not receive HCBS.

The regulations also aim to ensure that individuals have free choice of where they live and who provides services to them, as well as ensuring that individual rights are not restricted.

WHAT DOES THE RULE DO?

The rule sets expectations for settings in which HCBS can be provided. This rule requires that the settings:

- Be selected by the individual from options that include non-disability specific settings. Individuals must also have choice regarding the services they receive and by whom the services are provided.
- Ensures the individual right of privacy, dignity and respect, and freedom from coercion and restraint.
- Optimizes independence and autonomy in making life choices without regimenting such things as daily activities, physical environment, and with whom they interact.

The rule also requires additional safeguards that must be met when an individual resides in a setting that is owned or controlled by a service provider.

In addition, the rule also specifies certain settings in which HCBS cannot be provided. This includes settings that have always been statutorily excluded such as hospitals, nursing facilities, intermediate care facilities for the developmentally disabled (ICF/DD), and institutions for mental disease (IMD). However, the rules also goes a step further and describes settings that are presumed to have the qualities of an institution:

“Any setting that is located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment, or in a building on the grounds of, or immediately adjacent to, a public institution, or any other setting that has the effect of

isolating individuals receiving Medicaid HCBS from the broader community of individuals not receiving Medicaid HCBS.”

Any settings that fit this description are presumed to be institutional in nature and HCBS cannot be allowed in the setting unless the state can demonstrate to CMS that the setting does not have the qualities of an institution. Based on information submitted by the state and input from the public, CMS will determine whether or not a setting meets the qualities for being HCBS.

LOUISIANA’S APPROACH TO ADDRESSING THE HCBS RULE REQUIREMENTS

The Office of Behavioral Health will partner with Medicaid members, providers, advocates, and other stakeholders throughout this process to provide input into the process and to assure that providers have access to needed information to comply with the rule requirements. The final outcome will be to ensure that CSoC members are served in a way that will enable them to live and thrive in truly integrated community settings.

The Office of Behavioral Health will strive to make this ongoing transition plan process transparent to the public, including members served through HCBS. We will include information on our webpage, <http://new.dhh.louisiana.gov/index.cfm/page/1973>, which will become the central hub for information on the transition to fully compliant HCBS settings. This will potentially include stakeholder communication, changes to the transition plan as it is revised, and remediation status.

OBH believes that the majority of CSoC members reside and receive services in home and community-based settings, as defined by CMS. Our HCBS settings analysis is as follows:

Settings Presumed to be Fully Compliant with HCBS Characteristics
Member owns the house or leases housing, which is not provider owned or controlled
Member resides in housing, which is owned or leased by a family member
Therapeutic Foster Care
CSoC services including Parent Support and Training, Youth Support and Training, Crisis Stabilization, Independent Living/Skills Building, and Short-Term Respite Care services
Wraparound services provided to participants residing in an institution for discharge planning purposes to ensure a successful transition to a HCBS setting

Settings Presumed Non-HCBS but Evidence May be Presented to CMS for Heightened Scrutiny Review
Non-Medical Group Homes
Therapeutic Group Homes

Settings Do Not Comply with HCBS Characteristics
Institutions for Mental Disease (IMDs)
Psychiatric Residential Treatment Facilities (PRTFs)
Hospitals

Nursing Facilities
Intermediate Care Facilities for Persons with Developmental Disabilities (ICF/DDs)

MONITORING COMPLIANCE

OBH collaborated with Magellan Health, the CSoC Contractor, to establish a monitoring strategy to ensure compliance with HCBS rule. The following elements were identified to ensure CSoC members are integrated in and support full access to the greater community as well as have free choice of where they live and who provides services to them. Magellan will monitor waiver providers during quarterly onsite visits using the following proposed elements:

- Is the provider service setting located among other residential buildings, private businesses, retail businesses, restaurants, doctor's office, etc. that facilitates participant integration within the greater community?
- Is the provider service setting located in a building that also provides inpatient institutional treatment (such as a nursing facility, institute for mental disease, ICF/DD, or hospital)?
- Is the provider service setting located in a building on the grounds of or immediately adjacent to a public institution?
- Is the provider service setting physically accessible?
- Is all participant information kept private?
- Does the provider have policy requirements that assure staff do not talk to other staff about an individual in the presence of other persons or in the presence of the individual as if s/he were not present?

Magellan will also work with Wraparound Agencies to complete member surveys to assess the member's home setting using the following proposed questions:

- Is the member's home setting located in a building that also provides inpatient institutional treatment (such as a nursing facility, institute for mental disease, ICF/IDD, or a hospital)?
- Is the member's home setting located in a building on the grounds of or immediately adjacent to a public institution?
- Is the member's home setting owned by a service provider?
- Is the member's home setting designed specifically for people with disabilities?
- Does the member participate in community outings to the same degree as children/youth who don't receive CSoC services? If not, are CSoC services working to address barriers and to increase the member's participation in the community?
- Does the member reside with 3 or more unrelated persons (step families are considered related)?

CSoC members, providers, advocates, and other stakeholders have a right to provide input on the proposed monitoring strategy. Please use the following link to complete a brief survey and let us know how you feel: [SURVEYMONKEY LINK](#). You have thirty (30) days from the date this statement is issued to submit comments.

Proposed Survey Questions:

1. Do the provider questions adequately assess if the provider setting meets the specifications of the HCBS Rule? Yes or No
If no, why? Free Text
2. Do the member questions adequately assess if the member's setting meets the specifications of the HCBS Rule? Yes or No
If no, why? Free text.
3. Any other comments. Free text.