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## CMCS Informational Bulletin

**DATE:** January 10, 2014

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Director

**SUBJECT: Final Rule - CMS 2249-F – 1915(i) State Plan Home and Community-Based Services, 5-Year Period for Waivers, Provider Payment Reassignment, Setting Requirements for Community First Choice, and CMS 2296-F 1915(c) Home and Community-Based Services Waivers**

Today the Centers for Medicare & Medicaid Services (CMS) is pleased to announce the publication of an important final rule about home and community-based services (HCBS) provided through Medicaid's 1915(c) HCBS Waiver program, 1915(i) HCBS State Plan Option, and 1915(k) Community First Choice. The rule enhances the quality of HCBS, provides additional protections to HCBS program participants, and ensures that individuals receiving services through HCBS programs have full access to the benefits of community living. The rule is available at <http://www.medicaid.gov/HCBS>.

The final rule is a result of multiple rulemaking efforts over the last five years and consideration by CMS of input from thousands of stakeholders. This robust process helped CMS ensure that the regulation takes into account a wide range of stakeholder perspectives and the varying experiences across the states. There will be continued opportunities for stakeholder input as CMS works with states to implement this final rule.

CMS will offer opportunities for additional information, issuing additional guidance, and providing assistance as states begin implementing this final rule. We recognize that implementing this final rule may require states to evaluate and make adjustments in their current systems and that this process will take time. The final rule provides for a process that will allow states to implement this rule in a manner that will support continuity of services for Medicaid participants and minimize disruptions in service systems during implementation. This Informational Bulletin contains a brief overview of this transition process and the assistance available from CMS to assist states with the process.

### **Additional Information and Forthcoming Guidance**

CMS is committed to ensuring that stakeholders have immediate access to information to help them understand the final rule. CMS has developed a website dedicated to providing information about the rule, available at <http://www.medicaid.gov/HCBS>. On this website, stakeholders can find links to fact sheets, questions and answers and other related resources. In addition, CMS will be holding a series of informational webinars over the next several weeks. The dates for these webinars can be

found on the website. CMS has also established a mailbox at [HCBS@cms.hhs.gov](mailto:HCBS@cms.hhs.gov) and encourages you to submit questions to the mailbox.

As states begin implementation, CMS will provide additional information on a number of topics over the next several weeks and months. The information will be provided through additional Informational Bulletins and through revisions to the 1915(c) Waiver Technical Guide for regulatory changes for the 1915(c) HCBS Waivers, CMS will also be creating additional fact sheets and frequently asked questions (FAQs) to address questions from the public after they have had a chance to review the final rule.

### **Transition for Implementing Home and Community-Based Settings Requirements**

CMS recognizes that states and providers may need time to implement the clarifying requirements about the characteristics of home and community-based settings. The final regulation provides for a transition process that will allow states to implement this rule in a manner that supports continuity of services for Medicaid participants and minimizes disruptions in service systems during implementation. New 1915(c) waivers or 1915(i) state plans must meet the new requirements to be approved. For currently approved 1915(c) waivers and 1915(i) state plans, states will need to evaluate the settings currently in their 1915(c) waivers and 1915(i) state plan programs and, if there are settings that do not meet the final regulation's home and community-based settings requirements, work with CMS to develop a plan to bring their program into compliance. The public will have an opportunity to provide input on states' transition plans. CMS expects states to transition to compliance in as brief a period as possible and to demonstrate substantial progress towards compliance during any transition period. CMS will afford states a maximum of a one year period to submit a transition plan for compliance with the home and community-based settings requirements, and CMS may approve transition plans for a period of up to five years, as supported by individual state's circumstances, to effectuate full compliance.

States submitting a 1915(c) waiver renewal or waiver amendment within the first year of the effective date of the rule may need to develop a transition plan to ensure that specific waiver or state plan meets the settings requirements. Within 120 days of the submission of that 1915(c) waiver renewal or waiver amendment, the state needs to submit a plan that lays out timeframes and benchmarks for developing a transition plan for all the state's approved 1915(c) waiver and 1915(i) HCBS state plan programs. CMS will work closely with states as they consider how to best implement these provisions and will be issuing sub-regulatory guidance to provide the details regarding requirements for transition plans.

### **Assistance from CMS**

CMS is committed to assisting states in implementing these rules and is available to work closely with individual states at the beginning and throughout the development of their transition plans. In addition, CMS is working to provide additional technical assistance resources to states and will provide information about these resources as soon as possible.

Many states have made significant progress in recent years to increase the availability and quality of home and community-based services. We believe the implementation of these rules will contribute

significantly to the quality and experience of participants in Medicaid HCBS programs and will further expand their opportunities for meaningful community integration in support of the goals of the Americans with Disabilities Act and the Supreme Court's decision in *Olmstead v. L.C.*

We thank the many individuals and organizations who contributed input to these rules and look forward to the continuing dialogue with stakeholders as we work together to make them a reality.