How You Want To Live?

DDA Needs To Know

By March 2015, Maryland needs to make a plan for how to deliver more person-centered and integrated services to people with disabilities. The federal Centers for Medicare and Medicaid Services (CMS) have issued a new rule on home and community based services (HCBS). The rule requires programs like the Developmental Disabilities Administration (DDA) to plan for people with disabilities to be more in control of their lives and get help to live and work more like people without disabilities. The state must present a “transition plan” to CMS with input from people with disabilities and their advocates. This fact sheet summarizes the new HCBS rule and offers some ideas to help you start thinking about what the state should have in its transition plan to allow people with disabilities to have more choices, integration, and control over their lives. MDLC is working with partners and will seek your opinions soon.

1. Rights in all DDA service settings: residential, supported employment, day habilitation, etc.

The New Rule Requirements	Recommendations/Considerations
The place where people receive services must be integrated in the community and people must be supported to access the community such as shopping, restaurants, leisure activities, and religious services.	• People will need transportation support that is not always available now. • People will need to know their options and have choices about where they live and how they spend their time.
Services must help people find competitive jobs in integrated settings.	• People will need to know their options. • Transportation support must be considered.
Services must support the individual to • Engage in community life, • Control personal belongings and money, and • Receive services in the community.	• People will need to know their options. • Transportation support must be considered. • Providers should not require people they support to have a representative payee unless they really need one.
People must have a choice of settings based on their needs and preferences, including settings that aren’t specifically for people with disabilities.	• To ensure the cost of a provider-owned setting is not too high, the residential room and board cost should continue to be $375/month or at least within the individual’s income. • How will Maryland ensure that people are free to choose their roommates?
The service setting must ensure privacy, dignity and respect.	See next page for more detailed rights for Residential Settings.

Prepared by Maryland Disability Law Center, September 18, 2014

2. Residential Settings Owned or Controlled by Providers

The New Rule Requirements	Recommendations/Considerations
People must have the same responsibilities and protections from eviction as tenants, including a lease or other written agreement.	A DDA-approved model agreement template would be helpful. An agreement should include the provider's responsibility to comply with other new rule requirements for residential settings.
People must have privacy where they live.	People must have their own keys.
People must be able to lock the entrance to their home or room and have the choice of sharing keys with staff.	Regarding which staff has keys, CMS says the person receiving services "should have a say and agree with who that staff is."
A person must have a choice of residential settings in view of his or her ability to pay for room and board.	• People need to know all their options about where to live, including independent living. • Support services and housing providers do not have to be the same. • A tool could be created to inform people of their housing options. The tool could also collect data to learn whether people are moving to more integrated homes.
People who live with others get to choose their roommate(s).	To make the pool of potential roommates large enough to make choice meaningful, DDA could develop a roommate finder system.
People must have freedom to furnish and decorate their bedroom and other parts of their home, subject to the lease agreement.	The lease may set reasonable limits as long as limits are not discriminatory and do not deny legal rights.
People must have freedom and support to control their own schedule and activities.	Staff must support access to community and making choices.
People must have access to food at any time.	Food options should be based on individual preferences.
People must have the right to have visitors at any time and the visitors can be any one they choose.	Subject to limits in the lease agreement, overnight visits must be allowed.
The setting must be physically accessible.	This should be more specific.
Any changes to these rights must be supported by the person's needs and justified in the person's Individual Plan (IP).	Any changes must be individualized and based on evidence. People should be informed and agree with the need for changes that will reduce their rights.

3. Person-Centered Planning Process

The New Rule Requirements	Recommendations/Considerations
The person receiving services will lead the planning process when possible. Information and support must be provided to ensure that the individual receiving services direct the process as much as possible.	• People should keep significant decision-making authority even if a legal guardian has been appointed. • DDA should develop a list of required information to provide to each person receiving services.
The planning process must include people chosen by the person receiving services.	The person receiving services has the right to decide who will not participate in his/her planning process.
The planning process must occur at times and locations convenient to the person receiving services.	Meetings should occur at the person's home, workplace or day setting unless the individual requests otherwise.
Information must be presented in plain language.	Should DDA develop guidance or a standardized template for information to be presented?
The planning process must include strategies for conflict resolution, including clear conflict-of-interest guidelines.	• The person receiving services should have appeal rights to ensure rights can be protected if a conflict arises. • The IP should include clear written notice of appeal rights/meet due process requirements. • People should have access to an advocate when there is disagreement about the IP.
DDA service providers generally must not provide case management or develop the IP.	DDA should develop procedures to avoid IP development by provider agencies.
The planning process must offer people an informed choice of services, supports and service providers.	• How will people get the information necessary to make decisions? • CMS guidance suggests that people should be "given opportunities to visit other settings." • Will people be able to get services where they have friends?
The planning process must include a way for people to ask for updates to their individual plan (IP).	People should be allowed to request an update verbally, in writing or in other ways.
The IP must include the goals and desired outcomes of the person receiving services.	People must be able to determine their own IP goals.

3. Person-Centered Planning Process, cont.

The New Rule Requirements	Recommendations/Considerations
The IP must include information on • services and supports necessary to meet assessed needs and address the preferences of the person receiving services, • the person's strengths and preferences, • the person's clinical and support needs, based on an assessment of functional need, • services and supports, including self-directed services, needed to assist the person in achieving identified goals, • paid and unpaid providers of services and supports, • individual safety, and • measures to minimize risk, including back-up plans as necessary.	• People must be able to determine their own IP goals. • People must have meaningful understanding of the IP's plain language.
The IP must be understandable to people receiving and providing support.	DDA should test the format with groups of people.
The IP must be written in manner accessible to people with disabilities.	The IP must be available in alternative formats, according to individual needs.
The IP must be written in manner accessible to persons with limited understanding of English.	DDA should describe how it will meet the needs of people with limited understanding of English.
The IP must identify the people and/or organization responsible for monitoring the IP.	This can include the individual's choice of monitors as well as DDA-required monitors.
When the IP is final, the person receiving services must agree to the plan in writing.	What process will facilitate informed consent and how will the individual receiving services demonstrate informed consent?
The IP will be signed and copies distributed to all people and providers involved with or responsible for implementing the IP.	People should be able to receive another copy of their IP upon request, without undue delay.
The IP must be reviewed at least every 12 months, or when the person's circumstances or needs have changed significantly, or when requested by the individual.	• DDA should specify how a person requests a review of the IP. • Should the individual be offered opportunity to meet more than once a year?