

# Statewide Transition Plans (STPs)

## **HCBS Implementation: An Overview of Tennessee's Statewide Transition Plan & Engagement of Stakeholders**

**May 26, 2016**

**1:30-3:00 p.m. ET**

# AGENDA

- **Welcome and Introductions**
- **Status of CMS' Activities with States in Implementing the HCBS Settings Rule**
- **Importance of Stakeholder Engagement & Advocacy in HCBS Implementation Process**
- **Overview of Tennessee's Approach to Implementing the Federal HCBS Settings Rule – and How YOU Can be Engaged in Your State's Implementation Activities**
- **Q&A Session with Participants**

# Welcome and Introductions

*Jodie Anthony, Senior Policy Analyst,  
Disabled & Elderly Health Programs Group  
(DEPHG), CMS*

# Status of CMS' Activities with States in Implementing the HCBS Settings Rule

*Ralph Lollar, Director of LTSS,  
Disabled & Elderly Health  
Programs Group (DEPHG), CMS*

# Importance of Stakeholder Engagement & Advocacy in HCBS Implementation Process

- ❖ *Alison Barkoff, Director of Advocacy, Bazelon Center for Mental Health and Head of the HCBS Advocacy Coalition*
- ❖ *Joe Caldwell, Director of Long Term Supports & Services Policy, National Council on Aging*

# Overview of Tennessee's Approach to Implementing the Federal HCBS Settings Rule – and How YOU Can be Engaged in Your State's Implementation Activities

- ❖ *Patti Killingsworth, Assistant Commissioner, Chief of LTSS, TennCare*
- ❖ *Michelle Jernigan, Deputy, LTSS Quality & Administration, TennCare*
- ❖ *Wanda Willis, Executive Director, Tennessee's Council on Developmental Disabilities*



Ways **YOU** can support your  
State's efforts to implement the  
**HCBS Settings Rule**

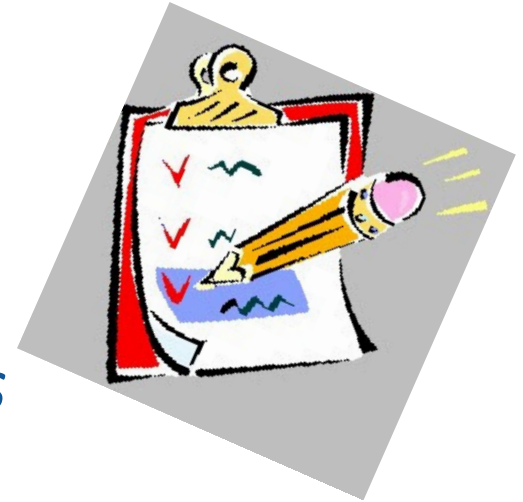
# Context for the Discussion

- **Not** here to tell you how your state should implement the rule
  - No “one right way”
  - Every state must work with the people they serve, their families, advocates and other stakeholders to determine the approach that makes the most sense for *their* state and *their* HCBS system
- Goal is to provide tools and share experiences that may be helpful to you in working with your state to formulate your state’s approach
- Goal is also to learn things from one another that will benefit *all of us* as we continue moving forward



# Agenda

- Vision
- Approach
- How do we get there--*together*?
- What should we do first?
- Develop the process: *Plan to assess*
- Education and Input
- Rolling it out: *Assess to plan*
- Discovery/Remediation—finding things that need to change and changing them
- When choice meets rule
- Heightened Scrutiny
- Ongoing Review and Monitoring
- How **YOU** can get involved in your state's efforts



# Vision

- **Begin with the end in mind –**

What's our vision for Tennessee?

What's the vision for **your** State?

- **At the end of the process –**

- What do we want to be able to say?
- How do we want to communicate the process and the results?
- What do we want to achieve?

**Not just compliance, but**  
***Better lives for the people we support***

# Tennessee's Approach

- Comprehensive statewide approach across Medicaid programs and authorities
  - 1115 MLTSS (**managed care**) program
  - 3 Section 1915(c) **fee-for-service** HCBS waivers
- Full compliance as soon as possible—*before* 2019
- Not just *what we think* but *what we know*  
(100% assessment of every site and review/validation)
- Leverage contractor relationships (expand capacity)
- Minimize provider (and administrative) burden, where possible
- Leverage technology for data collection and analysis

# Approach

- Inform and engage stakeholders in meaningful ways
- Meet the *spirit* and *intent* of the regulation
- Leverage *the opportunity* to move the system forward and improve people's lives
- Embed in ongoing processes (not just “one and done,” but a continuous process)

# Approach – Engaging Stakeholders

How do we **inform and engage** stakeholders (persons served, families, advocates, providers, etc.) in meaningful ways?

- Leverage advocacy organizations, providers, etc.
  - To review invitations and materials for persons served/families and advise the state on content and readability
  - To disseminate information (invitations to meetings/webinars, informational materials, proposed transition plan, etc. to individuals and families
  - To support and encourage their participation and input
- Require providers to include persons served, families, and advocates (external to their organization) in stakeholder group for provider specific self-assessment and transition plan process

# How do we get there?

- **Determine what is needed to tell the story**
  - Stakeholder input
  - Data
  - Proof of compliance
  - Member experience
- **How many people on our team when we started? 5**
- **How many settings? 1245**

# Develop the Process: *Plan to Assess*

- **Break it down into manageable steps**
  - Self-assessments
    1. State (Systemic)
    2. Contractors (Systemic)
    3. Providers (Site-specific)
  - Validation of contractor and provider self-assessments and transition plans
  - **Individual Experience Assessments**
  - Monitor implementation of transition plans
  - Monitor/assure ongoing compliance

# Develop the Process: *Plan to Assess (2)*

- **Training**

- Individuals receiving HCBS and families/representatives/advocates
- Providers
- Designated reviewers (contracted operating entities)



# Develop the Process: *Plan to Assess (3)*

## State (Systemic) Self-assessment

- What do we need to look at?
  - *Everything* that impacts HCBS and the people who receive them
    - Licensure requirements
    - Contracts
      - Managed Care Organizations
      - Department of Intellectual and Developmental Disabilities
      - Fiscal Employer Agent
      - ADRCs - Single Point of Entry
    - State statutes
    - Rules
    - Waiver language

# Develop the Process: *Plan to Assess (4)*

## State (Systemic) Self-assessment

- What do we need to look at?
  - *Everything* that impacts HCBS and the people who receive them
    - Policies
    - Procedures
    - Protocols
    - Practices
    - Reimbursement methodologies
    - Billing practices
    - ... (yes, there's more)

# Develop the Process: *Plan to Assess (5)*

## Contractor Self-assessment

### MCO s (MLTSS—managed care)

- Policies & Procedures
- Provider Agreements
- Provider Manual
- Provider Credentialing Requirements
- Staff Training Materials
- Quality Monitoring materials and processes

### Dept. of I/DD (1915(c)—fee-for-service)

- Policies & Protocols
- Provider Agreements
- Provider Manual
- Provider Credentialing Requirements
- Staff Training Materials
- Quality Monitoring materials and processes

# Develop the Process: *Plan to Assess (6)*

## Provider Self-assessment

- **We need data—how will we collect it?**
  - Provider self-assessments
  - Online survey tool (export to excel, slice & dice)
  - Create tool in fillable document that matches survey
    - Specific instructions
- **How do we get proof of compliance?**
  - Document review
  - On-site visits
- **How will know this is accurate?**
  - Require stakeholder involvement
  - *Ask the people receiving HCBS!*

# Develop the Process: *Plan to Assess (7)*

## Individual Experience Assessment (IEA)

- Developed from the CMS Exploratory Questions
- Administered by contracted case management entity
  - Independent Support Coordination agency
  - I/DD Dept. Case Manager
  - MCO Care Coordinator
- Phase I - individuals receiving residential and day services
- Phase II - embed in annual planning process for **all** persons receiving HCBS
- Data from IEA is cross-walked to the specific provider/setting in order to validate site-specific provider self-assessment results
- 100% remediation of any individual issue identified; thresholds established (by question) for additional remediation actions, e.g., potential changes in site-specific assessment, transition plan, policies, practices, etc.

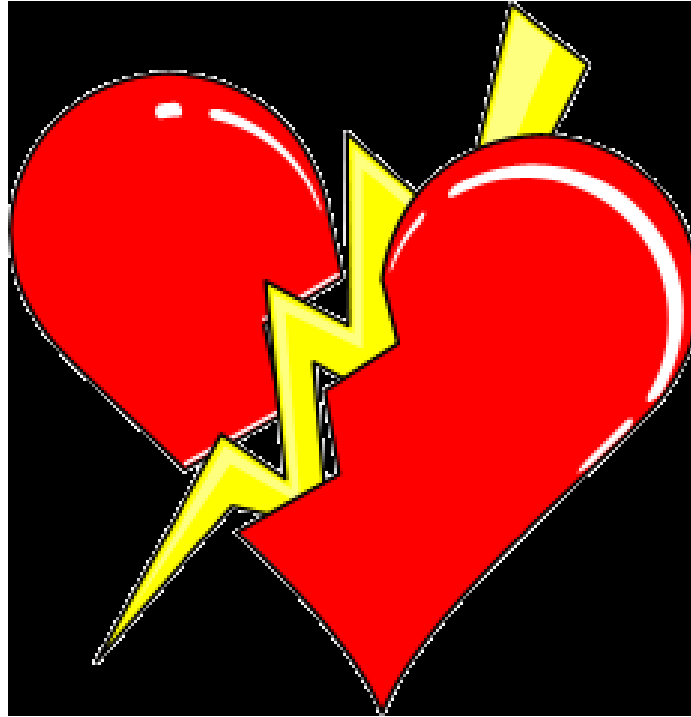
# Now what? Education and Input

## Tell people about the Rule!

- **Communicate with consumers, families, providers and advocates**
  - Open, posted introductory letter to the new rule
  - Educational materials (FAQs) and training
  - Disseminate through advocacy groups and providers
  - Consumer/family and advocate information sessions (again and again...)
  - Opportunities to ask questions
  - Structure public input, but leave room for more...
  - Accommodations
  - Extension

# Now what? Education and Input (2)

And they loved it, right?



- *Adjust the plan as needed based on public comment.*

# Now what? Education and Input (3)

## Keep telling people about the Rule!

- Communicate *again* with individuals/families/advocates
- Communicate *again* with contractors
- Communicate *again* with providers
  - More information sessions (again and again...)



# Rolling It Out: *Assess to plan (Site-specific)*

## Provide *extensive* training

- **Train providers**
  - Detailed walk through of each tool and expectations
    - Self-assessment form (literally, each question)
    - Accessing the survey
    - Validation form
    - Transition plan
  - Demonstration of the survey
  - Expectations for document submissions
  - Stakeholder involvement requirement
- **Implement the provider self-assessment process**
- **Monitor submission progress**

# Rolling It Out: *Assess to plan (Site-specific) Continued*

## Validation process

- **100% review and validation of self-assessment and transition plan required**
  - Leverage contracted entities (MCOs, I/DD agency) for 100% review (versus smaller sampling approach)
  - Standardized template
- **TennCare validation**
  - Initial reviews from each designated reviewer prior to sending to provider
  - Sample review at the conclusion of the process
  - Complicated settings
  - Upon request
- **On-site visits**

# Discovery and Remediation

**Discovery and Remediation:**  
*Finding what needs to change  
and changing it*

## Systemic (State) Assessment

# Discovery and Remediation: Systemic Assessment

- Opportunities to change certain State “standards” applicable to each HCBS setting
  - 1115 and 1915(c) waivers
  - State statute
  - State Administrative Rules
  - State contracts

# Discovery and Remediation: Systemic Assessment (2)

- Additional “opportunities” identified with respect to documents and processes that implement State standards
  - Needs Assessment and Plan of Care protocols
  - Medical Necessity protocols for residential/day services
  - Provider Agreements
  - Provider enrollment processes (1915(c))
  - MCO Credentialing processes
  - QA monitoring/tools
  - HCBS Provider Manual
  - Rate methodologies

# Discovery and Remediation: Systemic Assessment (3)

## Validation of systemic remediation processes

- Review/approval of all 1915(c) policies, protocols, etc.
- Desk review of amended MCO policies, processes, etc.
- MCO onsite readiness assessments, including credentialing and re-credentialing processes
- Review of amended Provider Agreements by Tennessee Department of Commerce and Insurance
- Revise internal audit processes for ongoing compliance monitoring

# Discovery and Remediation

## Site-Specific Assessments



# Discovery: Provider Self-Assessment Results

## Total Number of Provider Settings Assessed: 1245

- Total Residential Provider Settings: 704
  - Residential Habilitation and Medical Residential: 170
  - Family Model Residential: 290
  - Supported Living: 144
  - Assisted Care Living Facility: 99
  - Adult Care Home: 1
- Total Non-Residential Settings: 541
  - Community-Based Day: 167
  - Facility-Based Day: 86
  - Supported Employment: 99
  - In-Home Day: 147
  - Adult Day Care: 42

# Discovery: Provider Self-Assessment Results

## Reported Compliance among Providers:

- Provider settings deemed 100% compliant with the HCBS Settings Rule - **14%**
- Provider settings who have identified at least one area that is currently out of compliance with the HCBS Settings Rule - **84%**
- Provider settings deemed non-compliant with HCBS Settings Rule and opting not to complete a provider level transition plan - **2%** (27 settings )

# Whew...now what?

## Site Specific Remediation: *What do we do about it?*

# Remediation: Transition Plans

## 1048 Transition Plans Received

Areas identified as non-compliant:

- Physical Location: 367 or 35%
- Community Integration: 694 or 66%
- Residential Rights (Residential Only): 408 or 39%
- Living Arrangement (Residential Only): 552 or 53%
- Policy Enforcement Strategy: 936 or 89%

# The elephant in the room:

*Not everyone wants to work or be integrated!*



- What to do when choice meets the rule

# When individual choice meets HCBS Rule:

- A person can decide if they want to work.
- A person can choose the degree of community integration/participation they want.
  - It must be *meaningful* choice.
  - It's easy to choose NOT to do something that's new and different and that you don't really understand.
  - We have to help people understand; provide opportunities.
- A person can choose the setting they want to live in... even institutional. But they can't choose a non-compliant setting and receive Medicaid HCBS funding.

# When individual choice meets HCBS Rule (continued):

- A person can choose where they spend their day, including sheltered employment. Medicaid only pays for *pre-vocational* services in a sheltered setting.
- A person can choose to live in a home in close proximity to another home where people with disabilities live.
  - The setting will have to comport in order to receive HCBS funds...which means offering meaningful support and opportunities for inclusion.
  - Must demonstrate that people are working and participating in community to the extent *they* want AND provider is doing all they can to support that.
  - People who aren't are making those decisions in an informed and meaningful way and documented in the plan of care
  - And we NEVER give up...we keep trying. (Not one and done.)

# Are we there yet?

**More discovery;  
More remediation:  
*Heightened Scrutiny***



# Settings “presumed” to have institutional qualities

- **Settings that have the qualities of an institution (applies to residential and non-residential services):**
  - Located in a public or privately operated building that provides inpatient institutional treatment
  - Located on the grounds of, or immediately adjacent to a public institution
  - Has the effect of isolating members who receive Medicaid funded HCBS from the broader community of people who do not receive Medicaid funded HCBS

# Settings that may be “presumed” institutional

## Services/settings selected by State for potential heightened scrutiny review (based on CMS rule/guidance):

- Adult Day Care (inside inpatient facility/settings that isolate)
- Assisted Care Living Facilities (inside inpatient facility/settings that isolate)
- Critical Adult Care Homes (settings that isolate)
- Facility Based Day (settings that isolate)
- Residential Habilitation settings with more than 4 persons (settings that isolate)
- Supported Living and Residential Habilitation settings in close proximity (settings that isolate)

# Heightened Scrutiny

## Heightened scrutiny review will consist of:

- A review of data pertaining to services utilized by all persons receiving services in the specified setting
- An on-site visit and assessment of physical location and practices
- A review of person-centered support plans and Individual Experience Assessments for individuals receiving services in the setting
- Interviews with service recipients
- A secondary review of policies and other applicable service related documents
- Additional focused review of the agency's proposed transition plan
  - Including how each of the above is expected to be impacted as the plan is implemented
  - Transition plans may require revisions

# Heightened Scrutiny (2)

## Heightened scrutiny review will consist of:

- State determination regarding:
  - Whether the setting in fact is “presumed to have the qualities of an institution” as defined in rule/guidance
  - Whether the presumption is overcome based on evidence
- Collection of evidence to submit to CMS to demonstrate compliance (**ONLY if the state in fact feels the setting is “presumed not HCBS” AND meets the HCBS requirements**)

*Again, we engaged advocates:*

- *Part of the Heightened Scrutiny review and determination process*

# Heightened Scrutiny (3)

## After information is collected and reviewed:

- TennCare will compile and share (in a digestible format) with a Review Committee comprised of representatives from advocacy groups that serve individuals receiving HCBS
  - AARP
  - The Arc of Tennessee
  - Council on Developmental Disabilities
  - Disability Rights Tennessee (Protection & Advocacy)
  - Statewide Independent Living Center
  - Tennessee Disability Coalition
- The Advocacy Review Committee will review the evidence and help advise if each setting meets the requirements of the settings rule (or will once the transition plan is implemented).
- Settings that will be submitted to CMS will be posted (or notification will be provided directly for individual residences) for public comment

# Heightened Scrutiny (4)

## After information is collected and reviewed:

- All settings presumed to have the qualities of an institution (as defined in rule/guidance) will be submitted to CMS for final review **IF** the State determines the presumption is overcome
- Evidence will be packaged in a digestible format including analysis of all evidence compiled during the HS review process, with complete documentation available for more in-depth review

# And now we're done? Not so fast...

## Ongoing review and monitoring:

- Embed in person-centered planning processes
- Embed Individual Experience Assessment in annual person-centered plan review
- Embed in 1915(c) provider enrollment process
- Embed in MCO credentialing process (initial and ongoing)
- Embed in Quality Assurance review processes
- Leverage external survey processes for validation (e.g., National Core Indicators and NCI-AD)

# Working together: Tennessee's materials

- Available at <http://tn.gov/tenncare/topic/transition-plan-documents-for-new-federal-home-and-community-based-services>
  - Updates
  - All posted versions of the Statewide Transition Plan with tracked changes to ease stakeholder review
  - Provider self-assessment tools and resources
  - Individual Experience Assessment
  - Heightened Scrutiny tools and resources
  - Training and education materials



# Working *together*: An Advocate's Perspective

- **Take initiative to get involved**
  - Reach out, build relationship with state team
- **Participate in training/information sessions**
  - Request them if not being offered
    - Offer to help schedule/arrange
    - Offer to help sponsor or facilitate
- **Be a part of engaging individuals and families**
  - Help disseminate state's information/notifications
  - Develop your own information/articles
  - Encourage individual/family participation
  - Help address individual questions and concerns, dispel myths

# Working together: An Advocate's Perspective (continued)

- **Provide input into the State's Transition Plan**
  - Be as *specific* as possible
    - Is my concern and my recommendation clear?
      - Proposing new language is helpful.
    - Is it practical and actionable?
- **Make recommendations regarding the state's process and tools**
  - Research other states' process/materials
  - Provide meaningful feedback – solutions, not complaints
- **Participate in actual assessments whenever possible—systemic/site-specific** (be an extension of limited state resources, if you can)
- **Participate in heightened scrutiny reviews**
- **Help keep the focus where it belongs—on the people receiving services and the opportunity to improve the quality of their lives!!!**

# Interactive Q&A

## Questions?