SOUTH CAROLINA DEPARTMENT OF HEALTH AND HUMAN SERVICES

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Home and Community-Based Services (HCBS) Rule – South Carolina Statewide Transition Plan and Heightened Scrutiny Category 2 settings

Public Webinar
February 17, 2021

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Agenda

- Introduction
- HCBS Rule – Overview
- Statewide Transition Plan revisions
  - Status update
  - Communication and Outreach
  - Systemic Assessment
  - Settings Assessment
  - Heightened Scrutiny
- Heightened Scrutiny – Category 2 settings
- Comments and Questions
- Public Comment

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HCBS Settings Rule - Overview

- HCBS Settings Rule impacts all SCDHHS 1915(c) HCBS waiver programs

- Centers for Medicare and Medicaid Services (CMS) announced the HCBS rule Jan. 16, 2014

- It was effective March 17, 2014
  - All states must be compliant by **March 17, 2023** (for existing providers and programs)

- Two areas of focus:
  - Person-Centered Service Planning
  - HCBS Requirements

HCBS Settings Rule – Overview *(cont.)*

- Purpose (1):
  - Focus on the quality of beneficiaries' experiences
  - Enhance the quality of HCBS
  - Ensure beneficiaries have full access to the benefits of community living

- HCBS should:
  - Take place in an integrated setting
  - Give people access to their community
  - Focus on what people's goals are, what is important to them and what is important for them
  - Provide people with *meaningful* choices

Independent • Integrated • Individual

HCBS Settings Requirements

- The setting is integrated in and supports full access to the greater community including opportunities to:

    - Seek employment and work in competitive integrated settings

    - Engage in community life

    - Control personal resources

    - Receive services in the community

- The setting is selected by the person from options which include non-disability specific settings (2)

- Ensures a person's rights of privacy, dignity, respect and freedom from coercion and restraint

- Optimizes, but does not regiment, individual initiative, autonomy and independence in making life choices

- Facilitates individual choice regarding services and supports, and who provides them (3)

HCBS Settings Requirements: Residential

- People must have a lease
- Person has privacy in their sleeping/living unit
  - Lockable by the person
  - Choice of roommate
  - Freedom to furnish or decorate
- People must have a key to or way to lock their home and room
  - Only *appropriate* staff have the same key (not **all**)
- People must have access to food at all times
- People must be able to have visitors at any time
- The setting is physically accessible to the person
- People have the freedom and support to control own schedules and activities (4)

HCBS Settings Requirements

- CMS has specified settings that are **not** Home and Community Based (HCB) (5):
    - A nursing home
    - An Institution for Mental Disease (IMD)
    - An Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID)
    - A hospital
    - Other locations that have qualities of an institutional setting

HCBS Settings Requirements *(cont.)*

- Settings that have qualities of an institution (6):
  - Any setting located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment
  - Any setting 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 home and community-based services from the broader community

A public institution is defined as an inpatient facility that is financed and operated by a county, state, municipality or other unit of government (7)

HCBS Settings Rule - Overview

- Statewide Transition Plan - federal requirement (8):
  - States must write a Statewide Transition Plan to describe compliance activities
  - What changes will the state make to meet the new standards in their waiver programs?

- Two phases of the Statewide Transition Plan:
  - Initial Approval
  - Final Approval

- South Carolina has final approval of its Statewide Transition Plan
  - Received Feb. 4, 2020

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HCBS Statewide Transition Plan

- Four primary sections of the plan:
  - Communication & Outreach
    - Describes the public input into the process
  - Systemic Assessment
    - Describes state assessment of the laws, regulations and policies that guide the HCBS program in South Carolina for compliance with findings
  - Assessment of Settings
    - Describes state assessment of settings where HCB services are provided
    - Describes–in detail–actions to come into compliance by March 17, 2023
    - Describes–in detail–actions to maintain compliance after March 17, 2023
  - Heightened Scrutiny
    - Describes HCB Quality Settings Review process
    - Describes process of possible relocation of beneficiaries
- Appendices
- Found at the SCDHHS HCBS website (9)

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HCBS Statewide Transition Plan – Revisions

- Section 1, Introduction:
  - Updated Table of Contents, added appendices (all linked)
  - Updated new HCBS transition deadline
  - Updated table to reflect current Statewide Transition Plan revisions

- Section 2, Communication:
  - Inserted update on communication and current public notice

- Section 3, Systemic Assessment:
  - Updated new HCBS transition deadline

HCBS Statewide Transition Plan – Revisions *(cont.)*

- Section 4, Assessment of Settings:
  - Updated references to provider manual page numbers
  - Updated various compliance milestones
    - Settings compliance
    - Identification of non-compliant settings
    - Potential transition of waiver participants
  - Updated information on training provided to long-term living case managers

HCBS Statewide Transition Plan – Revisions *(cont.)*

- Section 5, Heightened Scrutiny:
  - Significant revisions to meet CMS requirements for Category 2 settings submission
  - Updated the overall settings numbers under state-level review since the Oct. 2019 Statewide Transition Plan submission
  - Updated outcome information on Adult Day Health Care review
  - Section 5.7.2:
    - Included new CMS dates and deadlines
    - Added links to blank settings review rubrics
    - Updated communication efforts to providers and participants
  - Section 5.7.3:
    - Included new CMS dates and deadlines
    - Updated other dates and public notice information
  - Section 5.7.4 included updated heightened scrutiny submission dates

HCBS Statewide Transition Plan – Revisions (cont.)

South Carolina Department of Disabilities and Special Needs' (SCDDSN) network of settings under heightened scrutiny review

Setting Type	Category 2	Category 3	Total
Day Services/AAC	4	0	4
Day Services/WAC	0	2	2
Residential/SLP I	0	17	17
Residential/SLP II	1	26	27
Residential/CTH II	2	32	34
Residential/CLOUD	0	15	15
Residential/CRCF	0	20	20
TOTAL	7	112	119

Heightened Scrutiny Category 2 Settings

- The state must identify settings that are "presumed to have the qualities of an institution" (10)

- Category 2 settings are buildings on the grounds of, or immediately adjacent to, a public institution

  - Public institutions = Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID)

Heightened Scrutiny Category 2 Settings *(cont.)*

SCDDSN's network of settings under Category 2 heightened scrutiny review

Setting Type	Category II
Day Services/AAC	4
Day Services/WAC	0
Residential/SLP I	0
Residential/SLP II	1
Residential/CTH II	2
Residential/CLOUD	0
Residential/CRCF	0
TOTAL	7

- HCB Quality Review Process:
  - Take a closer look at settings that might be like an institution and might isolate people from their community
  - Determine if those settings are:
    - ➢ Institution-like, or
    - ➢ Home-like and integrated in the community

- Settings determined to be home-like and community-based are sent to CMS to review

Heightened Scrutiny Category 2 Settings

- Category 2 settings submitted for CMS heightened scrutiny review:

	Setting Name	Setting Type	Region
1.	Fountain Inn	SLP II	Piedmont
2.	Gibbs Activity Center	Day/AAC	Pee Dee
3.	Meadowlark	CTH II	Midlands
4.	Patrick Center Activities	Day /AAC	Piedmont
5.	Piedmont Skills – Patrick Center	Day/AAC	Piedmont
6.	Piedmont Skills – Fountain Inn	Day/AAC	Piedmont
7.	Washington	CTH II	Pee Dee

SLP II = Supervised Living Program
AAC = Adult Activity Center
CTH II = Community Training Home

Heightened Scrutiny Category 2 Settings *(cont.)*

- Fountain Inn

- Reason for Submission:
  - Operationally separate from the ICF/IID next door (staff, transportation, activities, supports)
  - Policies and practices align with HCBS requirements
  - Feedback from residents and documentation from provider demonstrate residents engaging in individual activities, interests, work based upon their individual goals
    - ➢ Person-centered approach to plan development

Heightened Scrutiny Category 2 Settings *(cont.)*

- Gibbs Activity Center

- Reason for submission:

  - Operationally separate from the ICF/IID next door (staff, transportation, activities, supports)

  - Provider practices align with HCBS requirements

  - Documentation from provider demonstrate a person-centered approach to service plan and goal development for participants, documenting new goals as requested by participants

    - Participants engaging in individual activities and interests based upon their individual goals

- Meadowlark

- Reason for submission:
  - Operationally separate from the ICF/IID next door (staff, transportation, activities, supports)
  - Policies and practices align with HCBS requirements
  - Feedback from residents and documentation from provider demonstrate residents engaging in individual activities, interests, work based upon their individual goals
    - ➤ Person-centered approach to plan development

Heightened Scrutiny Category 2 Settings *(cont.)*

- Patrick Center Activities AAC

- Reason for submission:

  - Operationally separate from the ICF/IID next door (staff, transportation, activities, supports)

  - Policies and practices align with HCBS requirements

  - Feedback from participants and documentation from provider demonstrate participants engaging in individual activities, interests, and community engagement based upon their individual goals

    - ➢ Person-centered approach to plan development

- Piedmont Skills Fountain Inn AAC

- Reason for submission:
  - Operationally separate from the ICF/IID next door (staff, transportation, activities, supports)
  - Policies and practices align with HCBS requirements
  - Feedback from participants and documentation from provider demonstrate participants engaging in individual activities, interests, work based upon their individual goals
    - ➤ Person-centered approach to plan development

- Piedmont Skills Patrick Center AAC

- Reason for submission:
  - Operationally separate from the ICF/IID next door (staff, transportation, activities, supports)
  - Policies and practices align with HCBS requirements
  - Feedback from participants and documentation from provider demonstrate participants engaging in individual activities, interests, work based upon their individual goals
    - ➢ Person-centered approach to plan development

Heightened Scrutiny Category 2 settings *(cont.)*

- Washington

- Reason for submission:
  - Operationally separate from the ICF/IID next door (staff, transportation, activities, supports)
  - Provider policies and practices align with HCBS requirements
  - Feedback from residents and documentation from provider demonstrate residents engaging in individual activities, interests, work based upon their individual goals
    - ➢ Person-centered approach to plan development

Public Comment

- Feb. 10 – March 12, 2021
- Submit Comments:
  - Website: https://msp.scdhhs.gov/hcbs/webform/comments-questions
  - Email: comments@scdhhs.gov
  - Mail to:

    Office of Compliance

    ATTN: Kelly Eifert, Ph.D.

    South Carolina Department of Health and Human Services

    P.O. Box 8206

    Columbia, SC 29202-8206

- Public comments due by 5 p.m. March 12, 2021

Comments or Questions?

For Additional Information

please visit:

www.scdhhs.gov/hcbs

for information on the HCBS Rule, the public notice and the Statewide Transition Plan

Resources

1) Centers for Medicare and Medicaid Services (CMS) (October 26, 2015). *HCBS, Excluded Settings, and the Heightened Scrutiny Process*. Webinar retrieved from: https://www.medicaid.gov/medicaid/hcbs/downloads/hcb-excluded-settings-and-heightened-scrutiny.pdf

2) Code of Federal Regulations, Title 42, Part 441, Subpart G, Section 301(c)(4). Retrieved from: http://www.ecfr.gov/cgi-bin/text-idx?SID=76f3a7cf2f3c96b9b1053ee4a05e818a&mc=true&node=se42.4.441_1301&rgn=div8

3) Code of Federal Regulations, Title 42, Part 441, Subpart G, Section 301(c)(4). Retrieved from: http://www.ecfr.gov/cgi-bin/text-idx?SID=76f3a7cf2f3c96b9b1053ee4a05e818a&mc=true&node=se42.4.441_1301&rgn=div8

4) Code of Federal Regulations, Title 42, Part 441, Subpart G, Section 301(c)(4). Retrieved from: http://www.ecfr.gov/cgi-bin/text-idx?SID=76f3a7cf2f3c96b9b1053ee4a05e818a&mc=true&node=se42.4.441_1301&rgn=div8

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5) Code of Federal Regulations, Title 42, Part 441, Subpart G, Section 301(c)(5). Retrieved from: http://www.ecfr.gov/cgi-bin/text-idx?SID=76f3a7cf2f3c96b9b1053ee4a05e818a&mc=true&node=se42.4.441_1301&rgn=div8

6) Code of Federal Regulations, Title 42, Part 441, Subpart G, Section 301(c)(5). Retrieved from: http://www.ecfr.gov/cgi-bin/text-idx?SID=76f3a7cf2f3c96b9b1053ee4a05e818a&mc=true&node=se42.4.441_1301&rgn=div8

7) CMS (Dec. 2014). HCBS Final Regulations: Q & A Regarding HCBS. Retrieved from: https://www.medicaid.gov/medicaid/hcbs/downloads/q-and-a-hcb-settings.pdf

8) Code of Federal Regulations, Title 42, Part 441, Subpart G, Section 301(c)(6). Retrieved from: http://www.ecfr.gov/cgi-bin/text-idx?SID=76f3a7cf2f3c96b9b1053ee4a05e818a&mc=true&node=se42.4.441_1301&rgn=div8

Resources

9) South Carolina Department of Health and Human Services (SCDHHS) (2020). *HCBS Statewide Transition Plan*. Found at: https://msp.scdhhs.gov/hcbs/site-page/hcbs-statewide-transition-plan

10) Centers for Medicare and Medicaid Services (CMS) (October 26, 2015). *HCBS, Excluded Settings, and the Heightened Scrutiny Process*. Webinar retrieved from: https://www.medicaid.gov/medicaid/hcbs/downloads/hcb-excluded-settings-and-heightened-scrutiny.pdf