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Community Integration for Every New Yorker



Olmstead Progress Update

July 23, 2014

Most Integrated Setting Coordinating Council



The Olmstead Plan – Key Elements

- Community transition
- Common assessment and outcomes measurement
- Reforms to support community integration
- Accountability



Today's Focus

- Community-based settings regulations plans
- Advanced home health aide workgroup



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New York's HCBS Transition Plan

Mark Kissinger, DOH



Final Rule History

- Home and Community-Based Services (HCBS) settings final rule was initially promulgated in 2008 and 2009.
- It establishes settings requirements under 1915(k) — Community First Choice Option, which was published on February 25, 2011.
- Final rule was effective March 17, 2014, however, allows for transition plans over 5 years.



Final Rule Intent and Goal

- The new “requirements maximize opportunity for individuals to have access to the benefits of community living and the opportunity to receive services in the most integrated setting.”
- To align policies and procedures for individuals in need of home and community based services across disability populations using three distinct Medicaid funded authorities: 1915(c), 1915(i) and 1915(k).
- The goal is to establish conformity across HCBS authorities for person centered planning, allowable settings, and cross-disability applicability.
- SPAs, waiver applications, and other program changes made in advance of effective date will be reviewed and must transition to meet new requirements.



Settings Expectations

- Allowable settings will exhibit characteristics and qualities most often articulated by persons with disabilities as key determinants of independence and community integration.
- States electing to implement 1915(k), 1915(i) and/or 1915(c) must include a definition of home and community-based setting that incorporates these qualities.
- States with approved 1915 (k) or (i) SPAs and 1915(c) waivers will be given a reasonable transition time to come into compliance with HCB setting requirements in final rule.



Home and Community-Based Setting Requirements

- The final rule establishes:
 - Mandatory requirements for the qualities of home and community-based settings including discretion for the Secretary to determine other appropriate qualities;
 - Settings that are not home and community-based;
 - Settings presumed not to be home and community-based; and
 - State compliance and transition requirements.



Settings that are NOT Home and Community-Based

- The following settings that are NOT home and community-based:
 - Nursing facility
 - Institution for mental diseases (IMD)
 - Intermediate care facility for individuals with intellectual disabilities (ICF/IID)
 - Hospital



Settings PRESUMED NOT to be Home and Community-Based

- The following settings PRESUMED NOT to be home and community-based include:
 - Settings in a publicly or privately owned facility providing inpatient treatment;
 - Settings on grounds of, or adjacent to, a public institution; and/or
 - Settings with the effect of isolating individuals from the broader community of individuals not receiving Medicaid HCBS.



Settings PRESUMED NOT to be Home and Community-Based (Heightened Scrutiny)

- These settings may NOT be included in states' 1915(c), 1915(i) or 1915(k) HCBS programs unless:
 - A state submits evidence (including public input) demonstrating that the setting does have the qualities of a home and community-based setting and NOT the qualities of an institution; and
 - The secretary finds, based on a heightened scrutiny review of the evidence, that the setting meets the requirements for home and community-based settings and does NOT have the qualities of an institution.



Home and Community-Based Setting Requirements

- Ensures an individual's rights of privacy, dignity, respect, and freedom from coercion and restraint;
- Optimizes individual initiative, autonomy, and independence in making life choices; and
- Facilitates individual choice regarding services and supports, and who provides them.



Home and Community-Based Setting Requirements

- Allowable Home and Community-Based Settings:
 - Are integrated in and support access to the greater community;
 - Provide opportunities to seek employment and work in competitive integrated settings, engage in community life, and control personal resources; and
 - Ensure the individual receives services in the community to the same degree of access as individuals not receiving Medicaid home and community-based services.
 - Selected by the individual from among setting options, including non-disability specific settings and an option for a private unit in a residential setting.
 - Person-centered service plans document the options based on the individual's needs, preferences; and for residential settings, the individual's resources.



Home and Community-Based Setting Requirements for Provider-Owned or Controlled Residential Settings

- Additional requirements:
 - Specific unit/dwelling is owned, rented, or occupied under legally enforceable agreement;
 - Same responsibilities/protections from eviction as all tenants under landlord tenant law of state, county, city or other designated entity; or
 - If tenant laws do not apply, state ensures lease, residency agreement or other written agreement is in place providing protections to address eviction processes and appeals comparable to those provided under the jurisdiction’s landlord tenant law.



Requirements for Provider-Owned or Controlled Residential Settings

- The following are setting requirements for provider-owned or controlled residential settings:
 - Each individual has privacy in their sleeping or living unit;
 - Units have lockable entrance doors, with the individual and appropriate staff having keys to doors as needed;
 - Individuals sharing units have a choice of roommates;
 - Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement;
 - Individuals have freedom and support to control their schedules and activities and have access to food any time;
 - Individuals may have visitors at any time; and
 - Setting is physically accessible to the individual.



Home and Community-Based Setting Requirements for Provider-Owned or Controlled Residential Settings

Modifications of the additional requirements must be:

- Supported by specific assessed need;
- Justified in the person-centered service plan; and
- Documented in the person-centered service plan.



New York's Transition Planning

- The administration convened an interagency workgroup to review current settings, determine scope of impact, monitor new submissions and amendments and develop statewide transition plan;
- The workgroup established a time line for completion of transition plan; and
- A webinar was held July 7, 2014 detailing the requirements of the plan and New York's transition plan. The plan was published for public comment on June 30, 2014 at www.health.ny.gov/health_care/medicaid/redesign/home_community_based_settings.htm.



Timeline

Key Activity	Notes	Date
OPWDD transmission of 1915(c) amendment to implement transformation plan	Triggers need to develop transition plan for remaining 1915(c) waivers.	July 1, 2014
Post plan on website, notify stakeholders		June 30, 2014
Public comment period ends		July 31, 2014
Summarize public comments; consider revisions		August 15, 2014
Finalize for Executive Review		August 30, 2014
Submit to CMS	Include summary and evidence of public notice	By October 1, 2014



Public Comments Welcome!

- Please review the plan and send any comments you may have to OLTCDHCBS@health.state.ny.us with comment in the subject line.
- The full draft transition plan is available at http://www.health.ny.gov/health_care/medicaid/redesign/home_community_based_settings.htm.



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OPWDD's HCBS Settings Transition Plan

Megan O'Connor-Hebert, OPWDD

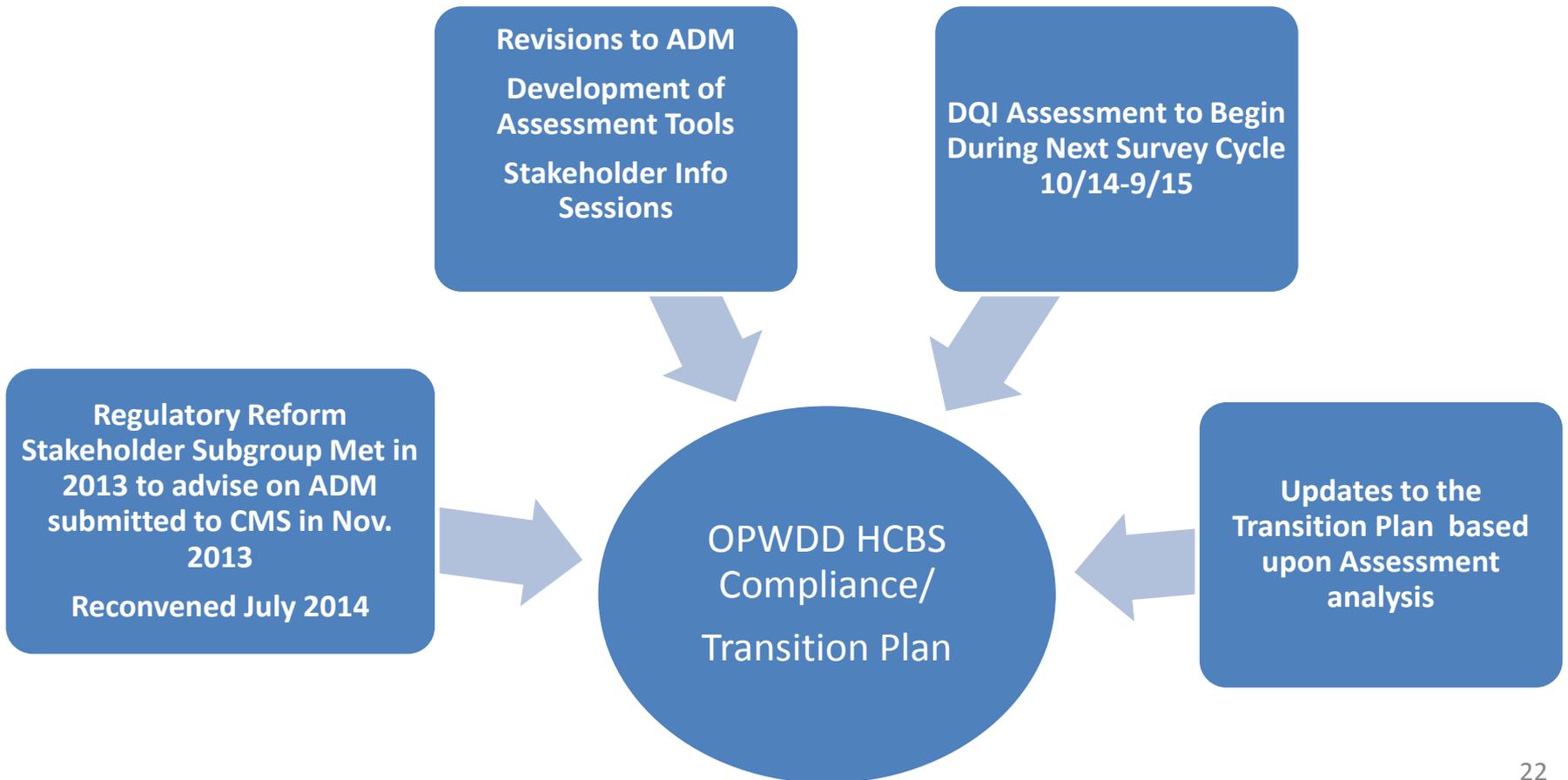


Status Update

- OPWDD's waiver renewal application was submitted on 7/1/14 with the HCBS settings transition plan.
- OPWDD posted its response to the public comments received between May-June 2014.
- Regulatory reform stakeholder workgroup reconvened on 7/17 to provide input/feedback.



Major Elements of OPWDD's Transition Plan





Summary Themes from Public Comments

- CMS definitions for integration/community settings may require transitions for people currently receiving services—OPWDD needs to allow people to stay in current setting if that is their choice.
- Roommate choice for existing person and new person may conflict with current OPWDD.
prioritization/vacancy management policies/practices
- OPWDD will need to be clear on the role of the MSC vs. HCBS providers in complying with these regulations.



Summary Themes from Public Comments

- OPWDD/DOH need to ensure appropriate level of funding to ensure compliance—these regulations have the potential for major fiscal implications on providers and cannot become another unfunded mandate.
- The financial disincentives with supportive housing, employment programs, etc. need to be addressed.
- While OPWDD has many similar rules in place, providers not held accountable to the quality principles – focus is on minimum compliance level.
- OPWDD must adopt regulations on these standards to ensure the full opportunity for public input.



Summary Themes from Public Comments

- Individual choice and control in certified residential settings is directly related to staffing levels/patterns and funding—not enough to provide individual level of services/control of own schedule, etc.
- OPWDD will need to increase monitoring and “boots on the ground.”
- OPWDD will need to devote considerable resources to training/education in the field to ensure that the spirit and intent of the regulations is understood and addressed, e.g., true person centered planning and practices.



The purpose of the Regulatory Reform/HCBS Settings Transition Plan Steering Committee (July & August):

To provide input/feedback to OPWDD on: (a) updating HCBS ADM; (b) Person centered planning/process requirements on final reg; (c) feedback on assessment tool; (c) input on transition plan

Workgroup Members:

- Represent stakeholder groups
- Obtain feedback/input from stakeholder groups
- Provide input/feedback on defined deliverables within tight timeframes required

OPWDD Staff:

- Present materials/facilitate discussions
- Develop/prepare deliverables and revisions
- Confer with OPWDD leadership on decision points/progress
- Project manage work plans / timelines



Next Steps – Summer/Fall 2014

- Regulatory reform stakeholder feedback/input on major deliverables.
- Finalize revised ADM and HCBS settings assessment tool.
- Begin assessing residential settings October 1, 2014.



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Advanced Home Health Aide Workgroup

Lisa Ullman, DOH



Overview

The Department of Health is convening a workgroup to provide guidance on advanced tasks that could be performed safely by home health aides in home care and hospice settings with appropriate training and supervision, if authorized as an exemption to the Nurse Practice Act in the New York State Education Law. The workgroup's guidance will assist the Department in developing recommendations for a future legislative proposal.



Objective

Authorizing the performance of advanced tasks by advanced home health aides will offer flexibility to health care providers that serve individuals in the community, potentially increasing the availability of the home and community based services workforce. This will:

- Support the state's efforts to ensure that care is provided in the least restrictive settings as required by Olmstead and consistent with Executive Order No. 84;
- Complement the state plan amendment filed by New York State under the Community First Choice Option (CFCO); and
- Offer additional opportunities for career advancement for home health aides.



Guidance

The workgroup will provide guidance on identifying:

- Tasks that could be performed safely by advanced home health aides, including administration of medication;
- The qualifications required for advanced home health aides, including minimum training and education standards; and
- The level of supervision to be provided by registered nurses to advanced home health aides.



Members

Members of the workgroup will include representatives of:

- Academic institutions;
- Home care and hospice providers;
- Home health aides;
- Nurses and nurse educators;
- Pharmacists;
- Individuals who may be eligible to receive services performed by advanced home health aides; and
- Other relevant stakeholders.