



## ***Combining & Targeting Populations Under 1915(c)***



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# Purpose of the Presentation

To provide an overview of the provision of the 2014 1915(c) HCBS Final Regulation which permits states to serve multiple target groups under one 1915(c) waiver.

# 2014 Home and Community Based Services Final Regulations

- Published January 16, 2014
- Effective March 17, 2014
- *Regulation can be found at:*  
<https://www.federalregister.gov/articles/2014/01/16/2014-00487/medicaid-program-state-plan-home-and-community-based-services-5-year-period-for-waivers-provider>
- *Additional information located at:*  
<https://www.medicaid.gov/medicaid/hcbs/guidance/index.html>

# The 2014 HCBS Final Rule:

- Establishes requirements for the qualities of settings where individuals live and/or receive Medicaid-reimbursable HCBS provided under sections 1915(c), 1915(i), 1915(k), 1915(b)(3), and 1115 of the Social Security Act
- Focus on the quality of individuals' experiences
- The intent is that individuals receiving Medicaid-funded HCBS have the opportunity to receive these services in a manner that protects individual choice and promotes community integration
- The provision of the rule related to target groups provides an option to states to design services across populations, which may lead to improved integration and administrative efficiencies in state Medicaid agencies

# Target Groups

- The 2014 final regulations included an important change to the regulatory provision regarding target groups. Provision became effective March 17, 2014.
- 42 CFR 441.301(b)(6): Be limited to one ***or more*** of the following target groups or any subgroup thereof that the State may define:
  - (i) Aged or disabled, or both.
  - (ii) Individuals with Intellectual or Developmental Disabilities, or both.
  - (iii) Mentally ill.

# Background

- Before the issuance of the 2014 final regulations, States were required to develop separate section 1915(c) waivers to serve more than one of the specified target groups.
- The 2014 regulatory change noted on the previous slide permits states to combine target groups within one waiver, removing a barrier for states that wish to design a waiver that meets the needs of more than one target population.
- States must still determine that without the waiver, participants will require an institutional level of care.

# Why Might States Utilize this Flexibility?

- Examples spurring state interest may include:
  - Seamlessly serving individuals of different target groups who may live together (for instance, an individual with an intellectual disability and his/her aging parent)
  - Recognition that individuals needs may make them eligible under more than one target group
  - Offering an array of services to meet a wide range of needs, regardless of diagnostic category
  - Potential opportunity to gain administrative efficiencies if state has been offering same service array to more than one target groups (heretofore, requiring more than one waiver)

# Program Design Considerations

- States opting to design one waiver serving multiple target groups must consider and gain stakeholder input on a number of important issues, including:
  - Strategies to maintain the key program expertise needed to address the unique needs of each population
  - Eligibility and assessment strategies that will serve all populations well
  - Appropriate services (including provider qualifications and reimbursement strategies) to meet the health and welfare of all individuals served



# Program Design Considerations, Continued

- Strategies for ensuring no group is disenfranchised by the consolidation
- Exploring opportunities for reserved capacity to ensure equal access across all groups
- Quality strategies that will enable nuanced discovery to identify issues that may be more typical in certain populations (i.e., falls, dysphasia, etc.)

# Availability and Access to Services

- Each individual within the waiver, regardless of target group, must have equal access to the services necessary to meet their unique needs as indicated in the person-centered plan.
- States may not limit services based on an individual's target group (for instance, state could not say that PERS is only for older adults or that habilitation is only for individuals with I/DD).
- States should thoughtfully engage stakeholders in determining the best menu of services to include to effectively meet the needs of all target groups included.

# Cost Neutrality Calculations

- The regulation does not affect the cost neutrality requirement for section 1915(c) waivers, which requires the state to assure that the average per capita expenditure under the waiver for each waiver year not exceed 100 percent of the average per capita expenditures that will have been made during the same year for the level(s) of care provided in a hospital, nursing facility, or ICF/IID under the state plan

# Cost Neutrality Calculations II

- Individuals included in the waiver must be included in the calculation of cost neutrality for their applicable institutional alternative (for example, individuals at an ICF/IID level of care (LOC) would be included in the calculation of cost neutrality for that LOC.
  - There are existing examples of multiple levels of care in waivers, even under the previous rule, where a particular target population may include multiple levels of care within the same waiver.

# Cost Neutrality Calculations III

- When a waiver serves individuals at more than one level of care (e.g., nursing facility, and ICF/IID), the estimates included in the waiver for institutional costs and state plan costs are the weighted average of each factor
- When a waiver encompasses more than one level of care, it is not required that the waiver be cost neutral at each level of care so long as it is cost-neutral on a composite basis.

# Quality Improvement

- CMS requires, at 42 CFR 441.302(a)(4), an assurance that the State is able to meet the unique service needs of the individuals when the State elects to serve more than one target group under a single waiver.
- Discovery, remediation and system improvement strategies must be effectively tailored to ensure efficacy for all target groups.
- Tailored strategies may be needed if issues are identified that appear to be affecting only one target group.
- The State, through the CMS 372 reports, will provide data in the quality section, for waivers serving multiple target groups, that a single target group is not being prioritized to the detriment of other groups

# What the rule does NOT do:

- Does not require a state to elect the option of designing a cross-target group waiver
- Does not in any way infringe on an individuals' basic Medicaid rights (choice, due process, etc.)
- Does not require (or imply) that each waiver setting has to co-locate individuals with disparate needs, potentially putting individuals in harm's way.
- Does not remove state obligations to ensure the health and welfare of **each person** served
- Does not allow for different sets of services within one waiver based on target group

# Stakeholder Engagement...Essential

- Meaningful, frequent and ongoing stakeholder engagement is always important in designing HCBS programs, but is especially important when the waiver will meet the potentially diverse needs of different target groups.
- The regulations have specific requirements for public notice that apply and states are advised to begin engagement early, utilizing many avenues to ensure a thorough and ongoing opportunity for meaningful input.



# A Potential Tool for Innovation

This option may provide a useful tool for innovation:

- As states consider ways to ensure access to HCBS supports throughout the life span and as specific needs arise, as in life
- As states explore new ways to support families and family caregivers, and
- As states consider administrative efficiencies while maintaining needed program expertise

# HCBS TA Available

- Determining what authority will best meet your objectives
- Providing guidance on major features of 1915(i), including developing needs-based criteria and self-directed services
- Providing guidance on major features of Section 1915(j), including the services to be self-directed and development of a person-centered service and budget plan
- Advice on integrating 1915(i) with other services, such as 1915(c) waiver services
- Providing clarification and assistance with the application process
- Identifying and addressing common barriers to implementation

# HCBS TA Examples of Topics

- HCBS -1915(i) and 1915(c)
- Self-Directed Personal Assistance Services State Plan Option - 1915(j)
- Community First Choice option -1915(k)
- Self-Directed Services
- Person-Centered Systems
- Supported Employment
- Individual Budgeting
- Need Assessment
- Positive Behavioral Supports
- Community Integration
- Rate Structures
- Managed Care
- Mortality and Morbidity Data Collection and Analysis
- Other Areas as Needed by States

# Where to Find Help

- CMS Website:

<https://www.medicare.gov/medicaid/hcbs/guidance/index.html>

- Engage with the Regional and Central Office staff

- Request TA:

<http://www.hcbs-ta.org/forms/request-technical-assistance>

- For additional information:

<http://www.hcbs-ta.org>

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