



ENGAGING STAKEHOLDERS IN THE RATE SETTING PROCESS

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Training Objectives

In this session, we will discuss stakeholder engagement for the 1915(c) Home and Community-Based Services (HCBS) waiver rate setting process.

- Review federal regulations that guide stakeholder engagement.
- Identify the benefits of effective stakeholder involvement.
- Discuss how to design an effective stakeholder engagement approach.
- Note that this training does not include cost surveys or wage survey development processes. To obtain more information regarding these topics, refer to the “HCBS Rate Setting, Data Validation” training, found at: <https://www.medicare.gov/medicaid/hcbs/downloads/hcbs-1d-data-validation-training.pdf>

Background

Federal Regulations Guiding Stakeholder Engagement

Social Security Act

- Overarching guidance for rate setting methodology for Medicaid services including HCBS is §1902(a)(30)(A) of the Social Security Act.

*“Payments are consistent with **efficiency, economy, and quality of care and are sufficient to enlist enough providers** so that services under the plan are available to beneficiaries at least to the extent that those services are available to the general population.”*

Public Input Requirements & Guidelines for 1915(c) Waivers

42 CFR § 447.304(d)(1) Highlights

- Substantive waiver changes require public input and may include:
 - Revisions to services available under the waiver including elimination or reduction of services;
 - Reduction in the scope, amount, and duration of any service;
 - A change in the qualifications of service providers; and
 - Changes in rate methodology or a constriction in the eligible population.

Public Input Requirements & Guidelines for 1915(c) Waivers (Continued)

Additional Considerations

- Before submitting initial and renewal waiver applications, states must review payment sufficiency for all services to ensure compliance with §1902(a)(30)(A) of the Social Security Act. This review should include input from stakeholders (e.g., beneficiaries and providers).
- If submitting rate changes in amendment applications, states are advised to analyze the effect of the change in payment rates and assess concerns expressed by stakeholders.
- Rates also should remain sufficient to ensure access to care.

Waiver Application Technical Guide

- In 1915(c) Technical Guide, Appendix I-2-a (page 252), states must clearly define the methods used to determine payment rates.
 - A key criterion used during the waiver review process is ensuring that the state includes a description of how stakeholder input was considered when determining rates.

CMCS Informational Bulletin

- Refer to the CMCS Informational Bulletin, “Federal public notice and public process requirements for changes to Medicaid payment rates”, issued on June 24, 2016 for more information regarding public notice policies and input process.
 - <https://www.medicaid.gov/federal-policy-guidance/downloads/cib062416.pdf>
 - Provides further guidance regarding the public notice and public input processes outlined in 42 Code of Federal Regulations (CFR), sections 447.204 through 205.

Rate Setting Overview

HCBS FFS Rate Setting Overview

- HCBS rates are often delivered in a fee-for-service (FFS) delivery system.
- In a FFS system, providers are reimbursed for each service based on a unit established for the delivery of that service.
- Rates can vary by factors including utilization of service by individuals, care level, acuity level, and/or staff costs.

The Basics of FFS Rate Setting in HCBS Environment

Types of rate setting in HCBS include:¹

- Fee Schedule
- Negotiated Market Price
- Tiered Rates
- Bundled Rates
- Cost Reconciliation
- Pay-for-Performance and/or Outcome-Based Payments
- Incentive Payments

Common rate components to determine a fee schedule rate may include:²

- Wages
- Productivity Assumptions
- Benefits Factor
- Administrative Overhead
- Program Support Costs
- Paid Time Off and/or Training Time
- Staffing Ratios

The Basics of FFS Rate Setting in HCBS Environment (Continued)

- States typically use a variety of sources to determine appropriate rates including:
 - Claims data;
 - Publicly available data, such as wage information from Bureau of Labor Statistics (BLS);
 - Provider cost survey; and/or
 - Wage surveys.
- CMS has provided multiple training guides related to FFS rate setting in an HCBS environment. Please refer to: <https://www.medicaid.gov/medicaid/hcbs/training/index.html> under “SOTA Rate Presentations” and “Web Only Rate Presentations” for more information regarding this topic.

Benefits of Stakeholder Engagement for Rate Setting

The Importance of Stakeholder Engagement

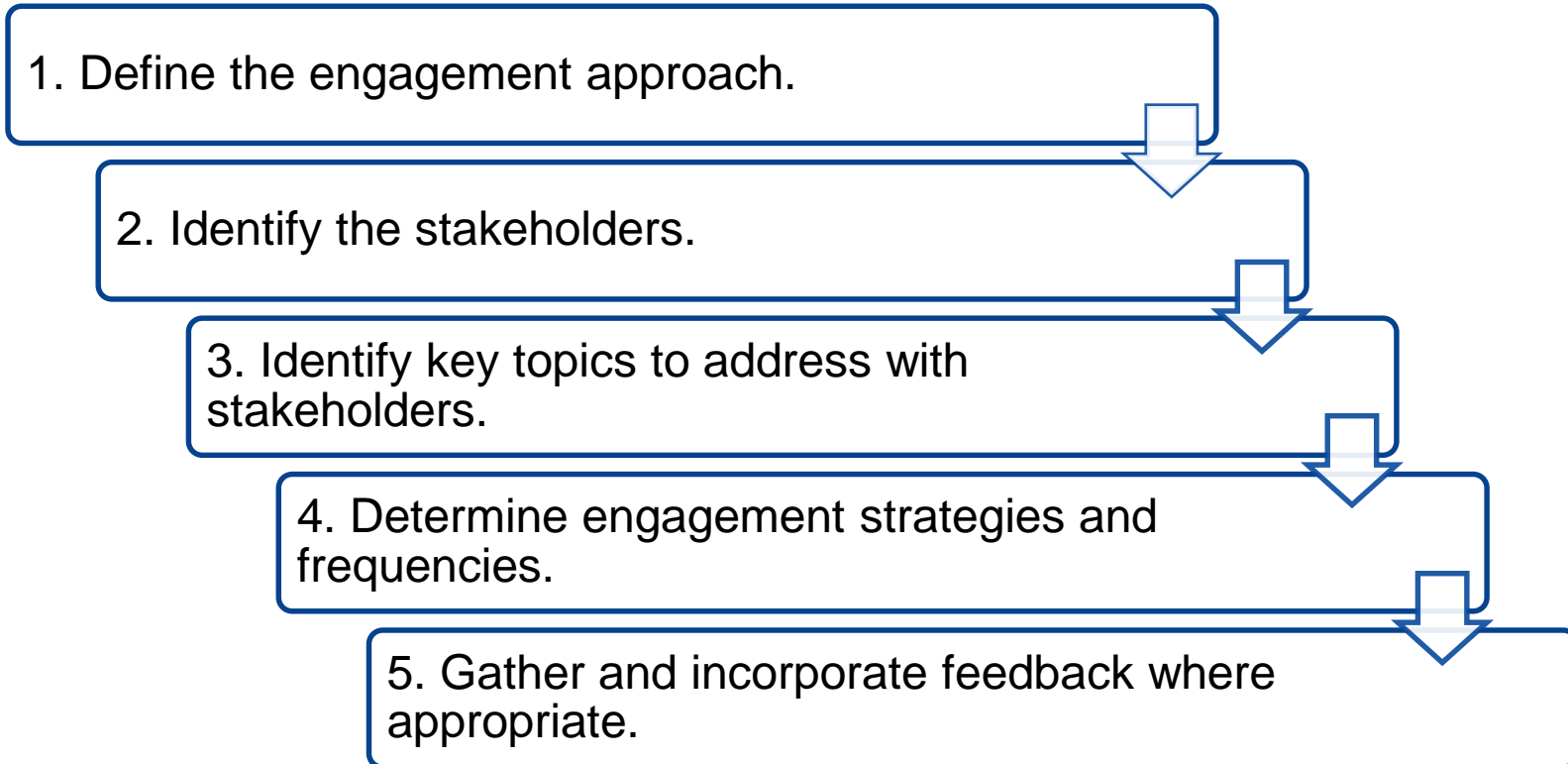
- Stakeholder engagement is a **requirement of the rate setting process** outlined in the 1915(c) waiver application.
- Transparency is key in rate setting as it:
 - Provides states with a better understanding of the providers' perspective on the current HCBS service delivery system.
 - Allows states the opportunity to communicate directly with stakeholders.
 - Encourages healthy relationships that are based on trust and respect that will serve states well into the future.
- Per the Supreme Court's ruling in *Armstrong v. Exceptional Child Center* (2015), CMS is the final arbiter of rate sufficiency³.

Benefits of Stakeholder Engagement in Rate Setting

- Engaging stakeholders provides additional benefits for states.
 - Provides opportunity for states to explain why and how rates are set and communicate anticipated changes to rates.
 - Allows states to assess service needs, ensuring that rates are accurate and realistic.
 - Allows states to address misconceptions about the rate setting process or existing rates.
 - Provides opportunity for stakeholders to make recommendations for future rates.
 - Encourages stakeholder buy-in for the rates.
 - Helps the state select the appropriate rate methodology.

Designing an Effective Stakeholder Engagement Approach

Overall Process for Effective Stakeholder Engagement



Step 1. Define the Engagement Approach

- States should establish a defined workplan for rate methodology updates that includes an approach for continuous stakeholder engagement.
 - Encourages transparency; stakeholders are able to voice questions and concerns directly and states are able to respond directly.
 - Continuous communication with stakeholders ensures adequate understanding of their perspectives.
- States should develop this approach early in the rate methodology / rate setting process and communicate engagement opportunities with stakeholders.
 - States should not wait until the end of the rate setting process to engage stakeholders. This can potentially lead to “front page” news stories and other negative media.

Step 1. Define the Engagement Approach (Continued)

- States should provide multiple opportunities for stakeholder engagement to solicit feedback from diverse stakeholder groups.

State Example:

- One state used listening sessions, public hearings, and online and telephone surveys to receive stakeholder feedback for re-defining their services before the rate setting process started.

Step 2. Identify Stakeholders

- States should consider opportunities to engage all relevant stakeholders.
 - Individuals and families from all services affected by the rate setting.
 - Service providers. Ensure that the provider groups are representative of the HCBS programs. Examples include:
 - Providers' Medicaid revenue size (e.g., Large providers are defined as those over a predefined dollar threshold in annual Medicaid claims billing).
 - Service locations (i.e., providers servicing mostly rural areas of the state vs. urban areas).
 - Providers representing the range of affected services and populations.
 - Provider associations in the state.

Step 2. Identify Stakeholders (Continued)

- Participants from state workgroups (e.g., Medicaid workgroups, any rate setting workgroups, etc.).
- State staff (e.g., Medicaid Director, HCBS liaison personnel, state budget chairs, etc.).
- Advocacy groups and other organizations.
 - Consumer advocacy groups.
 - State specific policy organizations that work on HCBS issues (e.g., those funded by a state or local university).
- Ombudsman;
- Olmstead committees;
- State legislature representatives involved in HCBS activities (e.g., chairs of committees that deal with HCBS).

Step 3. Identify Key Topics to Address with Stakeholders

- While topic interest depends on the stakeholder group, examples of common interests of stakeholders in rate setting includes:
 - Service definition updates or changes based on the rate review / setting.
 - Content and administration of any provider surveys.
 - How the rates are calculated or adjusted.
 - Overview of the rate models and the rate result.
 - Potential financial impacts for provider community and individuals.

Step 3. Identify Key Topics to Address with Stakeholders (Continued)

- CMS recommends states provide summaries of the public information and stakeholder input organized by topics and themes. This is particularly important for any data analysis or rate calculation related topics.
- After identifying the topics, consider the most effective engagement strategy to address them.

Step 4. Identify Engagement Strategies

- It is important for states to use more than one strategy to engage stakeholders.
- The number and mix of strategies will depend on the scope of the rate changes and the state's goals. Factors to consider when determining the scope of stakeholder engagement include:
 - Whether the state is changing one waiver program or implementing changes across multiple programs or populations.
 - The length of time the existing methodology has been in use.
 - Provider views of existing methodology.

Step 4. Identify Engagement Strategies (Continued)

- Please note that states that are exploring pay-for-performance and other value-based payment rate options should develop a robust stakeholder engagement process. For further CMS training on pay-for-performance, refer to:
<https://www.medicaid.gov/medicaid/hcbs/downloads/training/pay-for-performance.pdf>

Step 4. Identify Engagement Strategies – Ways States can Engage with Stakeholders

- States have an option to implement multiple strategies such as those listed below, and/or others as determined by the state.



Engagement Strategy 1: Town Hall

Purpose

- This is the most intimate and inclusive engagement strategy.
- Often used to gather a wide array of feedback from stakeholders or communicate decisions broadly and transparently. Typically, states use town halls at the:
 - Beginning of the process to communicate goals and objectives of a rate development process; or
 - End of the process to obtain input on final decisions that may be helpful during implementation.
- Provides an avenue for stakeholders to publicly voice feedback, independent of size or of practice.

Engagement Strategy 1: Town Hall (Continued)

State Example:

- One state invited stakeholders to comment on data as it relates to methodologies for collecting, analyzing, and presenting rate comparison and access analyses. This helped the state better understand provider service provision experiences.

Engagement Strategy 2: Steering Committees

- Commonly referred to as an “Advisory Group”.
- Contains a wide range of stakeholders versus being a provider-specific technical workgroup.
- Steering committees can also have sub-components including various provider workgroups.

Purpose

- Provide oversight and direction. While the state must retain decision-making authority over rate decisions, the use of a steering committee can help support a common understanding of:
 - Identification and consideration of provider costs; and/or
 - Rate methodology development

Engagement Strategy 2: Steering Committees (Continued)

Membership

- Key representatives across all stakeholder groups (e.g., advocacy groups, providers, individuals receiving services, etc.).
- States invite members to participate on a steering committee.
 - It is important to carefully consider your specific state's key HCBS constituents and decision makers when establishing the steering committee members.

Engagement Strategy 2: Steering Committees (Continued 1)

- States determine the meeting frequency.
- Committees could meet more frequently during more intensive phases of the rate setting process (e.g., when finalizing specific provider cost factors, reviewing the final rates, etc.).
- Steering committees require state resources.
 - States should identify a state staff person to support the committee and be responsible for communications and meeting logistics.
 - Consultants sometimes play a role in the logistics and are often tasked with presenting key aspects of the rate development / methodology to the steering committee.
- Engaging a steering committee throughout the rate setting process helps to avoid surprises at the end of a rate development project that may derail final approval by key parties (e.g., state legislators, individuals receiving services, advocacy groups, senior state agency staff, etc.).

Engagement Strategy 2: Steering Committees (Continued 2)

State Example:

- One state's rate rebasing steering committee met every 2-3 months while a separate provider workgroup met monthly.
 - The provider workgroup submitted specific recommendations regarding rate assumptions to the steering committee for consideration.

Engagement Strategy 3: Workgroups

Purpose

- Workgroups often develop specific recommendations for the Steering Committees / State Medicaid Agency's consideration during rate setting.
- Workgroups can also provide states a provider education opportunity to address how provider costs are identified and analyzed as part of the rate development.
- Separate workgroups may or may not be necessary depending on the composition and scope of work of the Steering Committee / Advisory Group

Membership

- States have freedom to design the workgroups – they can be organized by specific user groups, such as provider group vs. individuals/families group, or include representation from multiple stakeholder groups.

Engagement Strategy 3: Workgroups (Continued)

- States should consider the types of information that they would like the workgroup to address when determining membership.
 - For example, a provider workgroup would give an opportunity for providers to participate in the rate setting process, such as:
 - Provide feedback about what should be included in the provider surveys.
 - Help pilot test a survey and confirm that it is “do-able”.
 - Provide feedback related to rate components / assumptions.

Engagement Strategy 3: Workgroups (Continued)

State Example 1:

- When conducting their five-year rate review, one state convened a provider workgroup that included case management agencies, small and large provider agencies, and a guardian. This workgroup reported to an overarching steering committee.

State Example 2:

- When conducting their five-year rate review, a different state created two workgroups to receive both rate development feedback and service delivery experience during their rate setting process. These two workgroups reported directly to the state.
 - Workgroup 1: Provided in-depth knowledge of historical rate setting experiences in the state. Commented on specific establishment of the rate tiers, or other specific factors.
 - Workgroup 2: Provided feedback regarding service gaps and quality issues experienced.

Engagement Strategy 4: Targeted Discussion Groups

Purpose

- Targeted discussion groups, held in a single meeting or a brief series of meetings, allow for a more in-depth analysis and consideration of specific issues.
- Results of discussions are provided as feedback to other bigger groups, such as workgroups or steering committees.
- Targeted discussion group topics can be tailored to state-specific “hot-buttons”, such as:
 - Service-specific discussions, such as non-billable time required for the delivery of case management services.
 - Needs of specific provider types, such as rural / frontier providers.
 - Development of an abbreviated version of the cost survey for very small providers.
 - Review of existing rates and cost survey data to receive feedback from providers for the rate update.

Engagement Strategy 4: Targeted Discussion Groups (Continued)

State Example 1:

- One state used targeted discussion groups to share the state's rate and provider cost data analyses findings and to solicit provider feedback. Providers' feedback resulted in the state's reevaluation of the rate for the next rate setting period.

State Example 2:

- One state conducted a case manager discussion group and used their feedback to determine the staffing ratios for case management service.

Engagement Strategy 5: Project Website

Example of Topics to Include in the Project Website

- Hosted by State Agency or independently by contractor with a link to/from state website.
- Well-designed, thorough project website will support transparency and stakeholder engagement.



Engagement Strategy 6: Surveys / Online Feedback Forms

- Surveys / online feedback forms are typically a web form that allows for collection of feedback throughout the rate setting process.
- When designing the surveys or web forms, states should consider how to structure the response options in the feedback forms.
 - Allow both specific choices and written feedback sections to gather both qualitative and quantitative information.
 - Keep the questions simple, yet thoroughly explain the objective to ensure relevant feedback.
- Surveys / online feedback forms are not meant to replace other engagement strategies discussed in previous slides. Instead, states should use the forms as an on-going tool so that stakeholders always have a vehicle for communicating concerns and issues related to rates.

Engagement Strategy 7: Webinars

- Convenience is the biggest benefit of webinar sessions. Because they are done through the internet, they require little to no stakeholder travel and can be performed at any time during the rate setting process.
- Consider the following when organizing a webinar:
 - **Use a public space** (e.g., public library) to host a webinar. This will allow those with no internet access to view the session.
 - **Advertise widely**, such as through social media, and website postings, email distributions, and/or mailings, to encourage attendance.
 - **Make recorded sessions available** (e.g., posted on a project website) so those who could not attend the session can view the webinar on their own time.
 - **Allow post-webinar commenting** process so those who attended the session via recording or from a public space can submit their feedback.

Step 5. Gather and Incorporate Feedback Where Appropriate

- Once states have feedback from stakeholders they should:
 - Analyze feedback for common themes.
 - Summarize feedback into usable information.
 - Post summarized stakeholder feedback.
 - One way to post stakeholder feedback is to post the feedback and state's response publicly on the state's Medicaid website or the project website.
- State can use this information to support decisions on methodology and rate assumptions.
 - States should re-examine methodology if feedback from stakeholders contradict the state's planned approach.
 - States should consider how and whether to incorporate stakeholder feedback into specific assumptions used in rate methodology, (e.g., who provides the service, how much time is needed to perform a task, how many miles are necessary to travel.)

Step 5. Gather and Incorporate Feedback Where Appropriate (Continued)

- When determining how to apply stakeholder feedback, consider all feedback as a whole and look for trends.
 - **Example:** If multiple providers from all geographical areas and provider types comment that the cost of rural area transportation is too low, then the state should revisit the transportation costs included in the rate. At the same time a provider that brings up the extreme, outlier example, needs to be put into perspective in an approach that is addressing what happens on average in the service. Reserve special circumstances for exceptions.

Summary

- Federal laws and regulations require states to ensure stakeholder engagement in rate setting.
- To design a successful stakeholder engagement process, states should:
 - Define the engagement approach.
 - Identify the stakeholders.
 - Identify key topics to address with stakeholders.
 - Determine engagement strategies and frequencies.
 - Gather and incorporate feedback.

Summary (Continued)

- States can incorporate multiple methods for engaging stakeholders. Suggested strategies included using a mix of town halls, workgroups, targeted discussion groups, steering committees, project websites, online surveys, or webinars.
- When incorporating feedback, states must decide how to communicate the results of feedback sessions, and determine ways to apply feedback.
- Successful stakeholder engagement will allow for transparency and buy-in from all parties involved in the HCBS service delivery.

References

1. Rate Methodology in a FFS HCBS Structure: <https://www.medicaid.gov/medicaid/hcbs/downloads/rate-setting-methodology.pdf>
2. Fee Schedule HCBS Rate Setting: Developing a Rate for Direct Service Workers. <https://www.medicaid.gov/medicaid/hcbs/downloads/hcbs-1a-ffs-rate-setting.pdf>
3. *Richard Armstrong, et al., Petitioners v. Exceptional Child Center, Inc., et al.* 575 US __ (2015). Available at: <https://supreme.justia.com/cases/federal/us/575/14-15/case.pdf>.

Additional Resources

- Copies of the HCBS Training Series – Webinars presented during Medicaid Update/SOTA calls are located in below link:
<https://www.medicaid.gov/medicaid/hcbs/training/index.html>.
- 42 CFR Part 447 Subpart B Payment Methods: General Provisions. 447.204 and 205 references are located here:
<https://www.law.cornell.edu/cfr/text/42/part-447/subpart-B>.
- The 1915(c) Technical Guide is located here:
<https://www.medicaid.gov/medicaid-chip-program-information/by-topics/waivers/downloads/technical-guidance.pdf>

Questions & Answers

Feedback Survey

- Please go to the following survey in the link and give us your feedback on this Medicaid Update call:
 - https://www.surveymonkey.com/r/engage_stakeholders

For Further Information

For questions contact:

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