

# How States Can Assist Providers in System Transformation to Achieve Settings Compliance

**Division of Long-Term Services and Supports  
Disabled and Elderly Health Programs Group  
Center for Medicaid and CHIP Services**



# Objectives of the Training

- Highlight components of system transformation that are critical to providers and for which providers need state support to comply with the home and community-based services (HCBS) settings criteria;
- Review methods that states can use to facilitate provider compliance;
- Share lessons learned and promising practices within flexibilities initiated by states during the Public Health Emergency (PHE) to assist providers to adjust their HCBS delivery system to the changing needs of Medicaid participants as well as to continue the transition to compliance with the settings regulations;

# Objectives of the Training (cont.)

- Share examples of approved strategies to expand, enhance and strengthen HCBS from the state HCBS spending plans under section 9817 of the American Rescue Plan Act of 2021 (ARP); and
- Share examples of state section 9817 spending plan strategies that strengthen compliance with the HCBS settings regulations.

# Key Components of System Transformation to Support Providers' Compliance with the HCBS Settings Regulations

- Transparency and open lines of communication;
- Ensuring a person-centered approach to services and supports;
- Capacity building;
- Fiscal resources; and
- Value-based payment reform.

# The Key Components of System Transformation: Transparency and Open Lines of Communication (1 of 2)

- Promotes common language;
- Fosters shared understanding;
- Facilitates forward motion;
- Provides a forum for conversation to give providers a voice;
- Facilitates feedback to the state on specific provider needs;
- States should share information with providers that:
  - Clearly identifies objectives and how the state plans to execute system transformation through its Statewide Transition Plan (STP);
  - Conveys its value-based principles and practices and clearly articulates its requirements for providers;

# The Key Components of System Transformation: Transparency and Open Lines of Communication (2 of 2)

- Identifies how the state will conduct monitoring of remediation actions and ongoing monitoring of settings' compliance to ensure community integration;
- Includes quality measures and outcomes that set expectations/goals to evaluate provider progress on community inclusion;
- Identifies the processes the state will use in determining settings that are presumed to have the qualities of an institution; and
- Gives providers the opportunity to weigh-in on their areas of expertise.

# The Key Components of System Transformation: Ensuring a Person-Centered Approach to Services and Supports (1 of 3)

- Person-centeredness, including person-centered thinking, planning, and practice is the cornerstone of individual community inclusion based on informed choices and personal outcomes. It is recommended that states:
  - Promote provider understanding and practice of person-centeredness as they work to increase the opportunities for individual choice and community inclusion for individuals;
  - Recognize the new challenges confronting providers and participants as a result of the PHE and the need to protect Medicaid participants' health and safety while learning to re-integrate into the community;

# The Key Components of System Transformation: Ensuring a Person-Centered Approach to Services and Supports (2 of 3)

- Support providers to train individuals receiving services, and other person-centered planning participants, to understand and recognize personal choice based on informed consent, including instances when experiences/options are limited;  
For example: In one state, the Office of Aging and Disability Services is working in collaboration with the self-advocacy agency on informed consent. The state and the self-advocacy agency are working together to roll out a new virtual training dedicated to community support staff and individuals served in those settings, on the topic of informed consent, self-determination, and self-advocacy.



# The Key Components of System Transformation: Ensuring a Person-Centered Approach to Services and Supports (3 of 3)

In addition, this state is:

- Anticipating changes to its HCBS waivers to incentivize stronger focus on individualized, integrated community-based services;
- Working on several strategies related to service definitions, reimbursement methodologies, and outcome-based performance measurement to strengthen the system's ability to serve more HCBS waiver participants in individualized integrated community-based services.

# The Key Components of System Transformation: Capacity Building (1 of 2)

- Consider ways to build capacity to meet changing models of service delivery, including identifying systemic ways to ensure non-disability specific options are adequate and are being expanded. States should:
  - Work with providers to identify or develop strategies/methods to increase the provider pool;
  - Evaluate the status of the Direct Support Professional (DSP) workforce and assist providers to increase the availability of qualified, well-trained staff sufficient to meet individual needs;

# The Key Components of System Transformation: Capacity Building (2 of 2)

- Identify necessary supports and services that could be added to further individual integration into the community;
- Help providers map out their communities to identify resources and develop new business plans;
- Consider changes to transportation models to facilitate community inclusion.

# The Key Components of System Transformation: Fiscal Resources

- States should analyze the availability of resources to support providers and accomplish the milestones identified in the STP. It is recommended that states:
  - Initiate talks with local or county officials who might assist in identifying available resources, including optional funding streams, innovative resources such as grants, community fundraisers, matching funds, partnerships with university or special interest groups to provide financial support or intellectual capital.

# The Key Components of System Transformation: Value-Based Payment Reform (1 of 2)

- It is recommended that states consider structural reforms to incentivize payments for increased time in the community, more individualized choices for increased personal autonomy or for competitive, integrated employment models. As states work through projects including tiered rates, payments or redesigning services, keep CMS advised in order to avoid maintenance of effort (MOE) violations of the American Rescue Plan Act section 9817 requirements.
- States can also consider a pay for performance model inside the HCBS waiver/state plan benefit or other creative rate methodologies to incentivize providers;

# The Key Components of System Transformation: Value-Based Payment Reform (2 of 2)

- Create tiered models to make gradual changes; incentivize case management models that emphasize individualization, improve quality of life outcomes and natural supports; reward exceptional implementation of person-centered thinking, planning and practice; and
- Work with providers to identify methods to strengthen the role of DSPs through pay and benefit increases, bonuses, credentialing, additional pay incentives for supporting individuals with more complex behavioral or health needs, etc.

# Methods to Facilitate and Monitor Provider Compliance (1 of 6)

- Problem identification and provider needs' assessment: states can work with providers to identify specific areas of concern.
- Education, training, and technical assistance to give providers the tools necessary to understand the basic tenets of the HCBS settings regulation and to share their knowledge with front line workers, individuals served, families and other stakeholders.

# Methods to Facilitate and Monitor Provider Compliance (2 of 6)

- Offer providers on-site and remote education and technical assistance; identify providers who have successfully implemented changes and can share their experiences; identify methods to provide training that includes supporting providers to develop a community of practice;
- Provide continuous opportunities for training and technical assistance as needed to ensure ongoing compliance and commitment to the tenets of the HCBS settings regulations.
- Some examples of state strategies include:
  - One state created an education and training workgroup with self-advocates, beneficiaries, families and Protection & Advocacy, and developed a series of materials and videos with self-advocates who present the information.



# Methods to Facilitate and Monitor Provider Compliance (3 of 6)

- Another state formed a stakeholder group with individuals, parents, providers and self-advocates. The state's very active self-advocacy association produced a card with rights associated with the settings regulation and posted the language on the website; providers have used it as a conversation starter.
- One state created an HCBS rights/standards poster for settings and individuals, which is posted on the web page for HCBS trainings and resources for care homes.
- Another state is interested in getting their trainings on a learning management system to track who has received training and who has not, hopefully bringing some accountability to the training process.

# Methods to Facilitate and Monitor Provider Compliance (4 of 6)

- Ongoing monitoring, quality assurance and evaluation through data collection and analyses: states should focus on outcomes and build compliance into the state's regulations and should:
  - Include provider outcomes and existing licensing, recertification and case management processes as part of their monitoring and oversight initiatives and in the state's quality assurance process;
  - Use milestones/timelines to track progress toward compliance; detail the milestones for each step in the monitoring process and identify reasonable timelines for each milestone using CMS complete list of standard milestones;

# Methods to Facilitate and Monitor Provider Compliance (5 of 6)

- Include consumer feedback or other mechanisms to understand the typical level of engagement Medicaid participants have with the community;
- Examples of state activities include site or virtual visits to observe settings and individual integration into the community, review records, interview staff and individuals served; licensing and certification reviews; case manager visits; provider self-assessment surveys that are validated; consumer satisfaction surveys linked to specific areas; managed care organization performance monitoring;

# Methods to Facilitate and Monitor Provider Compliance (6 of 6)

- Use data to assist in the state’s monitoring function to ensure accurate and consistent monitoring across the state and provider communities;
- The ability to collect, track and trend data is the foundation of effective quality performance management and improvement across HCBS programs;
- Ensure input from providers in the data collection process and keep providers in the feedback loop including regular updates on findings specific to their HCBS delivery system.

# Lessons Learned from Flexibilities Initiated by States During the PHE (1 of 5)

States are currently evaluating lessons learned from the flexibilities initiated during the PHE and are rethinking those models for possible realignment of the state's HCBS delivery system to reinforce compliance with the settings regulations and to ensure community integration going forward. States are:

- Using the person-centered planning process and input from stakeholders to map out how to deliver services based on individual preferences and choices and that assist with re-integration at each person's own pace and comfort level:
  - To enrich the process, permit the use of remote/virtual options for person-centered services planning meetings; continue and/or develop the use of processes for electronic signatures.

# Lessons Learned from Flexibilities Initiated by States During the PHE (2 of 5)

- Expanding the use of technology and technology accessibility to enhance the opportunities individuals have to facilitate community integration; balance the use of technology and in-person services. States can:
  - Provide training and technical assistance to support providers in learning an evolving model of service delivery;
  - Reinforce with providers that the use of technology may enhance and support the work of DSPs and potentially expand the availability of services for individuals.

# Lessons Learned from Flexibilities Initiated by States During the PHE (3 of 5)

- Supporting providers to develop training programs to assist individuals to adjust to any new technology or methods implemented; increase safety checks and wellness activities through the continued use of remote monitoring of participants' status in addition to in-person visits; expand the use of telehealth.

# Lessons Learned from Flexibilities Initiated by States During the PHE (4 of 5)

- Making changes to provider qualifications to maintain or improve participant independence and to help ensure health and safety by using remote delivery of services to support providers to supplement the work of DSPs.
  - Using virtual/remote delivery of services (telehealth) to:
    - Work with participants on employment support options including job interviews, video resumes and creating employment supports, including using technology to help individuals blend more easily into their work environment.
    - Provide cueing for I/ADLs where individuals need minimal support.
    - Assist individuals to navigate their communities when in-person assistance is not needed or desired.



# Lessons Learned from Flexibilities Initiated by States During the PHE (5 of 5)

- Considering moving beyond facility-based day program options toward virtual/remote delivery of services (telehealth), either individually or in groups. States:
  - Are reinforcing a hybrid approach which balances on-site, in-person experiences coupled with remote delivery of services based on identified needs, preferences and choices of individuals;
  - Working with providers to assess their current status and provide support and training to adopt a new model of service delivery.

# Flexibilities Added to States' Ongoing HCBS Delivery System (1 of 3)

Building on lessons learned during the COVID-19 pandemic, states are in the process of adding flexibilities initiated during the PHE to their ongoing HCBS delivery system. Examples include:

- Increasing wage components in rates for DSPs;
- Including optional remote service delivery (telehealth);
- Emphasizing community-based employment as a priority.

# Flexibilities Added to States' Ongoing HCBS Delivery System (2 of 3)

One state:

- Promotes community integration by incorporating opportunities for individuals to participate in virtual community activities such as being included in exercise classes at the YMCA, broadcast via Zoom;
- Recognizes the benefits related to health and integration for those in community employment versus those in congregate day settings and intends to continue to make community employment a priority;
- Increases the reimbursement rate for small group settings to encourage additional staff and promote the ability of participants to engage/integrate into community activities of their own choosing.

# Flexibilities Added to States' Ongoing HCBS Delivery System (3 of 3)

Another state is proposing the following changes in their waiver submission under review:

- In-Home Supports as a self-directed option: includes care, supervision, teaching and/or assistance provided directly to or in support of the participant and provided in a variety of home and/or community settings to enable the person to live in the community by enhancing, maintaining, improving or decelerating the rate of regression of skills necessary to continue to live in the community;
- Added items to enable a participant to live as independently as possible without direct supervision/observation by another person.

# State HCBS Spending Plans Under Section 9817 of the American Rescue Plan Act of 2021 (1 of 4)

CMS recognizes the significant value of the additional funds allocated from section 9817 of the American Rescue Plan Act of 2021 (ARP) to enhance, expand or strengthen HCBS and is committed to working with its state partners to realize these improvements in the HCBS system, both in response to the COVID-19 PHE and in response to longstanding reform priorities.

# State HCBS Spending Plans Under Section 9817 of the American Rescue Plan Act of 2021 (2 of 4)

While states have broad flexibility in the use of these funds, CMS strongly encourages states to use the funds to implement structural changes to:

- Increase the number of HCBS waiver slots in order to reduce or eliminate waiver wait lists;
- Offer a broader range of community-based services, including for people with behavioral health conditions;

# State HCBS Spending Plans Under Section 9817 of the American Rescue Plan Act of 2021 (3 of 4)

- Make long-term investments in HCBS infrastructure, including capital investments to expand access to non-disability specific settings as part of a state's implementation of the home and community-based settings regulations;
  - Note that any use of the funds for capital investments must result in settings that are fully compliant with the home and community-based settings criteria;

# State HCBS Spending Plans Under Section 9817 of the American Rescue Plan Act of 2021 (4 of 4)

- Support provider compliance with the home and community-based settings regulatory criteria and promote community integration;
- Strengthen the direct service workforce by increasing the pay and benefits of Direct Support Professionals; and
- Address social determinants of health and improve equity for older adults and people with disabilities.



# State Spending Plan Submissions to CMS

- CMS has approved the HCBS spending plans from all 50 states and the District of Columbia.
- All states have been fully approved to claim the HCBS FMAP increase retroactively to April 1, 2021.
- Additional information pertaining to some proposed activities has been requested from three states.

# Innovative State Strategies from the HCBS Spending Plans and Narratives Under Section 9817 of the ARP (1 of 5)

- On October 21, 2021, CMS launched its webpage at [Medicaid.gov](https://www.Medicaid.gov) to share innovative state actions to expand, enhance and strengthen Medicaid HCBS.
- CMS encourages state administrators and stakeholders to visit [Medicaid.gov](https://www.Medicaid.gov) to view states' programs and activities to identify innovative approaches that can support HCBS and improve capacity building and infrastructure in their area by drawing inspiration from other states.
- CMS notes that states have included a number of innovative and exciting activities in their spending plans and narratives.

# Innovative State Strategies from the HCBS Spending Plans and Narratives Under Section 9817 of the ARP (2 of 5)

Examples of states' innovative activities include:

- Providing recruitment and retention bonuses, pay increases, and student loan forgiveness for DSPs, including behavioral health providers, as well as developing certification and training programs for DSPs (the majority of state spending plans and narratives include workforce development initiatives);
- Increasing the number of HCBS waiver slots in order to reduce or eliminate waiver wait lists;

# Innovative State Strategies from the HCBS Spending Plans and Narratives Under Section 9817 of the ARP (3 of 5)

- Implementing in-home and mobile COVID-19 vaccination programs for people with disabilities and older adults;
- Developing deed-restricted accessible and affordable housing units for people with disabilities;
- Expanding access to assistive technologies to promote independence and community integration;

# Innovative State Strategies from the HCBS Spending Plans and Narratives Under Section 9817 of the ARP (4 of 5)

- Expanding HCBS eligibility to children with disabilities in the TEFRA group (commonly referred to as the Katie Beckett waiver);
- Implementing new behavioral health crisis response services;
- Providing additional home-based services to support people to return home and avoid a skilled nursing facility admission following a hospitalization;

# Innovative State Strategies from the HCBS Spending Plans and Narratives Under Section 9817 of the ARP (5 of 5)

- Building partnerships to increase access to affordable and accessible housing and housing assistance for people with disabilities and older adults;
- Providing housing-related services and supports, such as home accessibility modifications and case management and other supportive services to help people obtain and maintain housing;
- Developing new initiatives to increase access to competitive integrated employment for people with disabilities; and
- Assisting providers to come into compliance with the settings criteria.

# State Spending Plan Strategies that Strengthen Compliance with the HCBS Settings Regulations (1 of 6)

One state continues to strengthen its Intellectual and Developmental Disabilities (I/DD) Waiver HCBS System with a spending plan anchored to identified community priorities:

- Person-centered planning, supports and services;
- Commitment to continuous quality improvement, and
- Community integration.

# State Spending Plan Strategies that Strengthen Compliance with the HCBS Settings Regulations (2 of 6)

One of the state's five priority areas for investment in the I/DD Waiver is to strengthen provider capacities and system infrastructure to support people to have the full life they choose in their community. This state spending plan earmarks the largest share of ARP funds to initiatives to support providers including:

- Increase provider payment rates;
- Invest in quality management;
- Support community integration and advance competitive integrated employment to lessen reliance on center-based programs;
- Support community navigator practice development.



# State Spending Plan Strategies that Strengthen Compliance with the HCBS Settings Regulations (3 of 6)

Another state is implementing an initiative that funds activities to assist people to move from facilities or provider-controlled settings to a home of their own:

- To assist people to exit treatment centers, community mental health psychiatric units, and community behavioral health hospitals; and
- To assist people receiving disability waiver services who are living in provider-controlled settings (e.g., corporate foster care and customized living) to move to a home of their own.

# State Spending Plan Strategies that Strengthen Compliance with the HCBS Settings Regulations (4 of 6)

One state focused on pilot projects in the following areas to stimulate innovation in HCBS to increase independence and community participation and prevent the use of unnecessarily restrictive settings:

- Independence-enhancing technologies such as remote monitoring and medication management;
- Innovative living arrangements that reduce the amount of on-site staffing needed;
- Peer support models;
- Improved transitions across the lifespan;
- Service models that enable individuals in out-of-state placements to return to the home state; and
- Services that more deeply integrate people into their communities.

# State Spending Plan Strategies that Strengthen Compliance with the HCBS Settings Regulations

## (5 of 6)

A second initiative is to expand the state's HCBS with additional competitive employment supports. Working with its Department of Labor, the state will implement strategies to increase employment among persons with disabilities and will increase access to employment for 18 to 25-year-olds applying for waiver services by assigning them an Employment Specialist Staff. This initiative includes:

- Increased Certified Employment Specialists in rural areas;
- Strengthened coordination between state departments and community-based providers;
- Improved access to quality employment opportunities; and
- Expanded self-employment support and resources to all waiver members.

# State Spending Plan Strategies that Strengthen Compliance with the HCBS Settings Regulations (6 of 6)

A third initiative by this state is to improve HCBS settings that require remediation through the state's settings rule implementation process:

- Providers are currently receiving Settings Findings Reports for each waiver setting that has undergone a review for alignment with the HCBS settings requirements.
- Providers are requesting support and assistance to make the necessary changes and embrace systemic reform.
- Providers who require outside support will be able to apply for a special one-time payment to assist with the costs of complying with the HCBS settings regulation, based on validated remediation plans.

# Wrap Up

- States have numerous opportunities to assist providers in HCBS system transformation. Some key highlights:
  - Sustaining open and transparent communication as states and providers work together to meet the March 17, 2023 compliance date.
  - Maintaining key flexibilities used during the PHE, such as expanded use of technology.
  - Employing fiscal strategies, such as value-based payments, and use of section 9817 ARP funds to increase HCBS provider capacity.

# Resources

CMS Baltimore Office Contact—Division of Long-Term Services and Supports:

- [HCBS@cms.hhs.gov](mailto:HCBS@cms.hhs.gov)

To request Technical Assistance:

- [HCBSsettingsTA@neweditions.net](mailto:HCBSsettingsTA@neweditions.net)

# Resources (cont.)

ARP Section 9817 spending plans and narratives, letters issued to states and other important related information:

- <https://www.medicaid.gov/medicaid/home-community-based-services/guidance/strengthening-and-investing-home-and-community-based-services-for-medicaid-beneficiaries-american-rescue-plan-act-of-2021-section-9817-spending-plans-and-narratives/index.html>

For additional information on ARP funding for HCBS, see SMD Letter # 20-003, May 13, 2021 at:

- <https://www.medicaid.gov/federal-policy-guidance/downloads/smd21003.pdf>

# Questions



# Feedback

Please complete a brief survey to help CMS monitor the quality and effectiveness of our presentations.

Please use the survey link:

<https://www.surveymonkey.com/r/Systems-Transformation>

WE WELCOME YOUR FEEDBACK!