



Home and Community Based Services Advocacy Coalition

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Statement of HCBS Advocacy Coalition Regarding Guidance from the Center for Medicare and Medicaid Services On the HCBS Settings Rule

Today, the Center for Medicare and Medicaid Services (CMS) issued guidance that reaffirms its commitment to implementing the Home and Community Based Settings (HCBS) Rule, including important requirements around the “heightened scrutiny” process for settings that have institutional qualities. First issued in 2014, the Rule is designed to ensure that limited HCBS Medicaid funds are used solely as intended: to fund truly home- and community-based settings, rather than de facto institutional settings. The Rule remains in effect in its entirety, and states must comply with all aspects of it by March 2022.

Even as we are pleased to see CMS reaffirm its intent to preserve and faithfully implement the HCBS Settings Rule, we are disappointed by the agency's decision to modify prior guidance regarding the heightened scrutiny process for "settings that isolate." The prior guidance used evidence-based guidelines to ensure that scarce HCBS dollars went solely to community-based settings, rather than settings that are institutional in nature, such as large congregate settings. CMS has maintained many of those same common-sense expectations, but deleted helpful examples of residential settings that typically have the effect of isolating people, making states' identification of such settings more difficult. Despite this change, states continue to have an obligation to identify and scrutinize such settings, as well as ensure those settings make needed changes to come into compliance. CMS maintains its oversight responsibility to make sure states do their jobs and, ultimately, to ensure that all HCBS settings satisfy the Rule's standards by March 2022. Furthermore, the provisions of the Rule itself regarding "settings that isolate" continue to be in effect.

Because CMS is affording states additional discretion, it is more important than ever for disability and aging advocates to engage with their states to promote truly integrated settings, consistent with best practices, research and policy. People with disabilities, older adults, and their families deserve meaningful choice, not a replication of institutional environments in settings that are community-based in name only. The HCBS Advocacy Coalition will continue to work with advocates across the country to ensure strong and meaningful implementation of the HCBS Settings Rule by states and CMS. We urge advocates, state governments and federal policymakers to heed their obligations and continue to work to swiftly and faithfully implement the HCBS Settings Rule, which is a vital tool in protecting the liberty of people with disabilities. Inclusion, autonomy and true choice remain at the core of civil rights and human dignity. We are pleased that the HCBS Settings Rule remains in place to further these principles for all.

The HCBS Advocacy Coalition will be closely reviewing the new guidance and issuing further information for stakeholders. CMS' new guidance is available at <https://www.medicaid.gov/federal-policy-guidance/downloads/smd19001.pdf>.

The HCBS Advocacy Coalition is a partnership of over 20 national disability and aging organizations that support the full inclusion of people with disabilities and older adults into society, including a cross-disability and aging organizations representing families, people with disabilities and older adults who

use Medicaid services, Medicaid-funded providers, and disability and aging advocates. We work collaboratively with a range of federal and state policy makers, state and federal agencies, and disability stakeholders to support federal and state policies that provide people with disabilities of all ages opportunities to live, work and fully participate in the broader community. The HCBS Advocacy Coalition is focused on implementation of the of the Medicaid rule governing HCBS settings to ensure its successful implementation consistent with the spirit and intent of these requirements. We also assist stakeholders in every state in understanding the Rule, and achieving systems change that results in truly integrated settings and services that promote a life in the community. For more information about the coalition, our members and resources we provide to stakeholders about the Rule, see www.hcbsadvocacy.org or contact hcbsadvocacy@gmail.com.