What is the New Federal Home and Community-Based Service Rule?

Medicaid-funded home and community based services (HCBS) provide necessary supports to individuals with disabilities and older adults who need help to live in the community. HCBS provide services such as financial management, residential supports, transportation, and supported employment. These important services are an alternative to institutional care, and help individuals to maintain their independence. However, some of these services have been provided in restrictive settings, instead of people’s homes and communities. To address this problem, the Centers for Medicare and Medicaid Services announced a new rule to help people get services in integrated settings. The new rule requires states to ensure that individuals receiving services through HCBS programs have full access to the benefits of community living and are able to receive services in truly integrated settings.

What is HCBS Transition Planning?

To comply with the new rule the Utah Department of Health must write a plan that describes how people with disabilities will get the supports they need to stay healthy, live where they want, do work they like, and make decisions about their lives. Because states will not be allowed to use federal money for services that isolate people from the community, the Department of Health must tell us how people are receiving supports now. More importantly, the state must tell us what needs to change so Utahns with disabilities and those who are aging have a real opportunity to be active, productive, and contributing members of their community. The plan must describe in detail how the change will happen so that people don’t lose the supports they depend on.

The Department of Health has already published a plan that has been made publically available. The final plan was modified based on public comments and submitted to the Centers to Medicare and Medicaid Services for final approval on March 17, 2015. Even after approval, the State must hold additional comment periods each time there are substantive modification to the plan. We anticipate the state will hold future public comment periods that will allow individuals to provide further input on the state’s plan throughout the coming months. For updates about the state’s planning process you can join the Department of Health’s mailing list for up to date information about the status of the plan. If you would like more information, read our take on the state’s plan and what we think needs to change to make the plan better.

If I am a provider of HCBS services how can I be involved?

If you are a provider organization that supports people with disabilities the state needs your feedback on the transition plan. The state has until 2019 to come into full compliance with the new settings rule which will require changes to the way services are delivered. We encourage providers to tell the state what supports they need in order to give their clients more choice and full access to the benefits of community
Why is the Disability Law Center involved in the transition process?

The new rule requires states to gather public input throughout the transition process. Specifically, the Centers for Medicare and Medicaid Services has encouraged states to seek input from a variety of stakeholder groups including protection and advocacy systems. As the Protection and Advocacy Agency for the State of Utah, the Disability Law Center is uniquely suited to provide assistance and input into the transition process. We work to protect the legal rights of people with disabilities. Many of the clients we represent receive services in home and community based settings. As part of this work, our agency has developed a comprehensive understanding of the legal and statutory requirements that apply to home and community services. We believe the transition process is an exciting opportunity to improve the quality of the HCBS service system and promote community integration.

Can the Disability Law Center access our program and speak with our clients?

In an effort to more fully understand the array and scope of HCBS services currently provided, the Disability Law Center is conducting a survey of the service delivery system. Accordingly, a group of service providers have been randomly selected to participate. As the Protection and Advocacy Agency for the state of Utah, the Disability Law Center has the authority to access facilities where people with disabilities work and reside. Specifically the Disability Law Center may monitor program compliance with respect to the rights and safety of residents. 45 C.F.R. § 1386.22(g)(2) (PADD); 42 C.F.R. § 51.42(c)(2) (PAIMI). This means that the Disability Law Center will be speaking with individual consumers related to their experience receiving HCBS services and interacting with providers.

What about client confidentiality?

As discussed above, the Disability Law Center has the authority to monitor facilities where people with disabilities work and reside. While representatives from the Disability Law Center will talk to individuals during our survey visits, the Disability Law Center will not use specific names of any person or program when we compile the results of our survey. Rather, our interactions with your program and clients will be informational to help us understand the service system as it currently exists. Our goal is to provide competent feedback to the state that will help facilitate full compliance with the settings rule, and a fully integrated system for people with disabilities.

Where can I learn more?

To read the final rule, fact sheets, webinars, informational bulletins, and toolkits from the Centers for Medicare and Medicaid Services visit Medicaid.gov/hcbs

To view other state transition plans, access national resources, and learn more about the new rules visit hcbsadvocacy.org

For local resources, fact sheets, and more visit our website at http://disabilitylawcenter.org/community-living/