Overview

• What are Home & Community-Based Services (HCBS)?

• What are the new rules for Home & Community-Based Settings?

• What is the state doing to bring the service system into compliance with the new rules?

• How can the public become involved?
What are Home & Community-Based Services?

- Medicaid-funded home and community-based services (HCBS) provide supports to individuals with disabilities and older adults who need help to live in the community.

- HCBS provide:
  - Residential supports
  - Help with housekeeping and cooking
  - Help with case management and coordinating of services
  - Respite care
  - Supported employment to help people find and keep a job
  - Transportation

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What are the new rules for Home & Community-Based Settings?

• On January 10, 2014 the Centers for Medicare & Medicaid Services (CMS) issued a final rule to define and describe the requirements for:
  – Home and community-based settings
  – Person-centered planning process

• The new requirements move away from defining HCBS settings by what they are not, and toward defining them by the nature and quality of individuals’ experiences.
What are the new rules for Home & Community-Based Settings?

• The purpose the new settings requirements is to:
  – Improve the quality of HCBS
  – Provide protections to consumers
  – **Ensure consumers have full access to the benefits of community living**
What are the new rules for Home & Community-Based Settings?

- Under the new rule, HCBS settings must have all of the following qualities:
  - The setting is integrated in and supports full access to the community
  - The setting is selected by the individual from among a range of options, including non-disability specific settings
  - Ensures an individual’s rights of privacy, dignity, and respect
  - Optimizes individual initiative, autonomy, and independence in making life choices
  - Facilitates individual choice regarding services and supports, and who provides them
Integration into the Community

• The rule requires HCBS be provided in and support full access to the greater community.
• This includes opportunities to:
  – Work in competitive and integrated settings;
  – Engage in community life;
  – Control personal resources; and
  – Receive services in the community to the same degree of access as individuals not receiving HCBS
Individual Choice

- Under the new rule, people receiving HCBS must have choices about where they get services
- Individuals must have the option to receive services in settings that aren’t disability specific
- The choices have to be based on the person’s needs, preferences, and situation
- Even if a person has a choice of settings, the setting needs to meet all of the requirements of the new rule

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Individual Rights

• Individuals who are receiving HCBS must have a right to privacy, dignity, and respect, and freedom from coercion and restraint

• For example, individuals should have the right to lock their bedroom door or talk privately with friends
Autonomy

• People receiving HCBS need to have the same kinds of choices and freedoms as individuals not receiving HCBS

• Even if someone needs help to make decisions, this cannot be used as a reason to take away options
Choices Regarding Services and Providers

• Under the new rule services are chosen through the person-centered service planning process

• Individuals should have the ability to choose what services they get and who provides them

• Individuals should have a meaningful choice about services
Requirements for Provider-Owned or Controlled Residential Settings

• Each individual has privacy in their bedrooms or living rooms
• Rooms have lockable entrance doors with appropriate staff having keys to doors as needed
• Individuals sharing rooms have a choice of roommates
• Individuals have the freedom to furnish and decorate their room
• Individuals have freedom and support to control their schedules and activities
• Individuals may have visitors and/or food at any time
• The setting is physically accessible to the individual
What is not an HCBS setting?

- Nursing facility
- Institution for mental diseases (IMD)
- Intermediate care facility for individuals with intellectual disabilities (ICF/IID)
- Hospital
Settings Presumed Not to be Home and Community-Based

• CMS will presume a setting is not HCBS if:
  – It is located in a building that also provides inpatient treatment;
  – Is located on the grounds of, or immediately adjacent to, a public institution; or
  – If the setting has the effect of isolating individuals from the broader community

• Settings with these characteristics must go through a process of “heightened scrutiny” before they can be considered HCBS
Person-Centered Service Planning

- Everyone who receives HCBS must have a person-centered service plan
- The plan must be in writing and created through a process that includes people chosen by the individual
- Where possible, the individual should lead the process
- Unless absolutely necessary, the same providers who are going to be providing HCBS should not be creating the service plan or directing the process
- The service plan needs to be accessible and in plain language
Transition

- CMS has termed coming into compliance with the HCBS requirements “transition”
- States have to develop a transition plan detailing how the state will comply with the settings requirements in all waivers
- The transition plan must be made available for public comment
- All HCBS providers and settings must be in full compliance by 2019

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Where is Utah in the transition process?

• The State has published a draft transition plan and accepted public comment

• The plan was updated based on these comments and submitted to CMS for final approval

• The plan includes steps to:
  – Assess providers’ level of compliance
  – Help providers make changes to meet the requirements of the new rule
How can I be Involved?

- The State has submitted the final plan to CMS, but must hold additional comment periods each time there are substantive modifications to the plan.
- We strongly encourage consumers, family members, and providers to submit feedback during the public comment periods.
- To review the plan and receive updates about the State’s planning process, you can join the Department of Health’s mailing list at:
  - http://health.utah.gov/ltc/hcbstransition/
What if the State is not accepting public comments?

• The Disability Law Center is in the process of gathering information about the HCBS service system in order to provide better feedback to the state about how the system could be improved.

• If you have input you would like us to share, or a service provider you would like us to visit:
  – Visit our website at http://disabilitylawcenter.org/hcbs/
  – Call us at (801) 363-1347

• We would love to hear your stories about what it means to you to live in the community, how you feel you could have more choices in your life, what you think needs to change to make the HCBS service system better, or anything else you think we should know.
What should I say in my comments?

• You can comment on what is in Utah’s transition plan, things that aren’t in the plan that should be, or what is not clearly explained in the plan.

• You can also talk about your own experience with HCBS so far. Some specific questions you may want to think about are:
  – Can you choose what you do each day?
  – Did you choose where you live?
  – Did you have a choice in where you work?
  – Do you have choices in the supports you receive and the people who help you?

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Why is it important to be involved in the transition planning process?

- The State will need to make changes to the HCBS service system over the next several years to come into compliance with the new settings regulations.
- These changes will impact consumers, families, and providers.
- The State can’t write a good plan without your input!
For More Information

• For local resources, fact sheets, and more visit our website at:
  http://disabilitylawcenter.org/hcbs/