

Home and Community-Based Services Final Rule FACT SHEET

The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) have released new Federal regulations (also referred to as the Final Rule) that apply to ten Home and Community-Based Services (HCBS) Medicaid programs in Pennsylvania. All states have until March 17, 2019 to come into full compliance.

The affected programs are: Adult Autism Waiver; Aging Waiver; AIDS Waiver; Attendant Care Waiver; CommCare Waiver; Consolidated Waiver; Independence Waiver; Infant, Toddlers and Families Waiver; OBRA Waiver; and Person/Family Directed Supports Waiver.

Questions & Answers on the Final Rule

1. What do the new Federal regulations say?

The new regulations contain requirements from the federal government to enhance the experience of participants receiving home and community-based services (HCBS) by providing additional protections and ensuring that individuals receiving services through HCBS programs have full access to the benefits of community living.

2. Why is Pennsylvania agreeing to these rules?

If waiver funded services are provided in an unallowable setting, Pennsylvania may face penalties, including loss of federal funding. Approximately half of the funding for waiver services comes from the Federal government. Without Federal funding each waiver would not be able to provide services to the same number of individuals.

3. What is the transition plan I keep hearing about?

The transition plan outlines steps Pennsylvania (PA) will take to work with providers, participants and other stakeholders to ensure compliance by 2019. There is a statewide transition plan and each waiver also has a transition plan. The statewide transition plan includes steps that PA will take to ensure services rendered in each waiver meet the requirements outlined in the Final Rule. Each waiver's specific transition plan is slightly different, but they all include the same elements. This includes working with individuals receiving services, providers, and families to identify how we ensure we are in compliance.

5. How will this affect individuals who are currently using waiver services?

If a provider chooses not to meet the requirements, the Department of Human Services (the Department) will work with the provider and participants on a transition plan that ensures no participant will go without needed services. It is the Department's goal to ensure that individuals have the choice of a larger variety of services needed to achieve greater independence, choice and opportunity in their lives.

6. The regulations also contain requirements for person-centered planning. Why isn't this information in the transition plans?

CMS limits the purpose of the transition plan to address settings where waiver services are delivered. The Department will ensure person-centered planning remains a focus through the execution of our Transition plan.

7. Will all vocational facilities be shut down?

Vocational facilities may be more commonly known as sheltered workshops. The regulations do not state that vocational facilities must be closed down. CMS gives each state the authority to decide whether to provide waiver services in vocational facilities as long as it can ensure that the facilities meet the new Federal regulations.

8. Is PA shutting down settings based solely on their location?

CMS guidance states that the location alone does not make the setting unallowable. The Department will develop policy regarding settings that are home and community-based after receiving input from stakeholders. The Department will use the stakeholder input to develop policies to meet the Federal regulations. Once the policies are developed, the Department will work with providers to identify if the providers are compliant and how they can come into compliance.

9. What about individuals that live in rural settings who receive services? Does this automatically mean that rural vocational facilities are 'isolating'?

CMS has stated that individuals with disabilities who receive services in a rural area must have the same opportunity for community integration as people without disabilities in that community. In collaboration with stakeholders, the Department will be developing further guidance on the topic of 'isolated settings.' If it is determined that a setting is not compliant, the Department plans to use the transition period to work with providers to ensure compliance.

You are encouraged to regularly check the Department of Human Services website for updates at: www.dhs.state.pa.us/fordisabilityservices/HCBSwaiver.