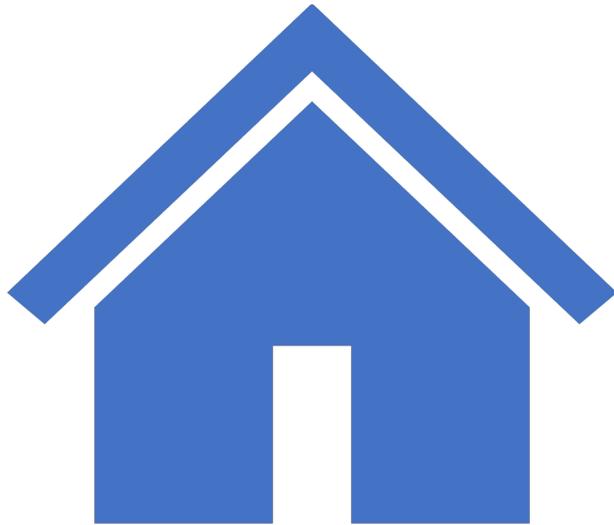


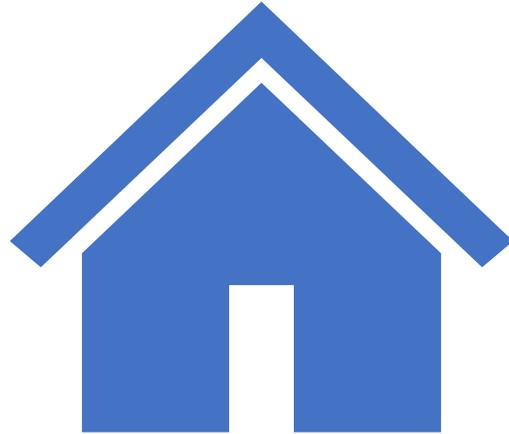


LAKESHORE
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Understanding the Home and Community Based Final Rule Refresher

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What is the Home and Community Based Final Rule
(HCBS)



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- In 2014, the Center for Medicare and Medicaid Services (CMS) published a new set of rules for the delivery of Home and Community Based Services (HCBS) through Medicaid waiver programs
 - Through these rules, CMS aims to improve the experience of individuals in these programs by enhancing access to the community, promoting the delivery of services in a more integrated setting and expanding the use of person-centered planning.
 - Settings must ensure that the individual experience is home and community based, not institutional and does not isolate the individual from the broader community

Positive Impact on Persons Served

Protection of individual rights of privacy, dignity, respect, access, and freedom from coercion and restraint

Ensure full integration and participation in community life

Autonomy and independence in making life choices and decisions

HCBS Areas of Concern

- No Residency agreement and state landlord tenant law
- No Choice of provider
- No Choice of roommate/housemates
- No Freedom to furnish/decorate room
- Lack of Privacy
- No locks on doors (bedroom and/or bathroom)
- Restricted visiting hours
- Restricted Freedom of movement inside and outside of home
- Restricted Access to food and choice of foods
- Restricted Freedom to control schedule and activities
- Restricted Access to earned income
- Cameras/video monitors, door alarms



Provider Network Evaluation

- Michigan Department of Health and Human Services (MDHHS) required the LRE to survey through Qualtrics Online Survey System, providers and participants receiving HCBS services in residential and non-residential settings. HCBS services include:
 - Community Living Support Services
 - Skill Building Services
 - Supported Employment
- These results were used to identify changes needed to meet the HCBS guidelines
- PIHP is responsible to ensure providers are compliant with HCBS rules through:
 - Validation of survey responses
 - Corrective Action Plan process



HCBS Survey Process

- MDHHS developed survey tools to assess individual settings for home and community-based characteristics through Provider and Participant Surveys. These survey tools are available on MDHHS's Home and Community Based Services Program Transition website by waiver type.
 - HCBS Survey process will be continued to ensure settings remain HCB
- Ongoing survey process
 - Provider Survey
 - Will receive a survey for a specific individual via email
 - Providers **MUST** complete the survey
 - Effective immediately, if the provider fails to complete the survey, their setting will be deemed NOT HCB!
 - Participant Survey
 - Supports Coordinator/Case Manager will receive the participant survey via email
 - SC/CM is to present the survey to the individual for online completion
 - Waiver participants are strongly encouraged to complete the survey but not required
 - Waiver participants can complete the survey themselves or identify any person to help, SC/CM should facilitate this as needed
 - SC/CM can assist with completing but CANNOT complete the survey on behalf of the individual.



Categories of compliance

Using the data from the surveys, providers were placed into categories of compliance:

1. Home and Community Based compliant
2. Presumed not Home and Community Based, with potential to become HCBS compliant
3. Heightened Scrutiny- provider setting appears to be unable to meet the HCBS rule

Validation of Survey Responses

- Specific to an individual
- Based on HCBS survey results
- Managed by the LRE
- Ensures that setting correctly answered survey questions based on characteristics of the setting
- LRE will collect proof documentation of the validation process



Corrective Action Plan Process

For those providers who are presumed able to become HCB compliant, CAPS are:

- Specific to an individual
- Based on HCBS survey results
- Managed by the LRE
- Service providers are asked to submit a CAP to the LRE within 30 days
- CAP must be implemented within 90 days of approval
- LRE verifies that the CAP is initiated and/or completed
- LRE will collect proof documentation of corrections

Validation/CAP Proof Documentation Examples:

- Copy of policies and procedures
- Copy Individual Plans of Service (IPOS)
- Copy of Behavior Support Plans
- Copy of daily activity logs
- Copy of Progress Notes
- Copy of activity, outings, group schedules
- Copy of Resident Care Agreements/Summary of Rights
- Copy of Resident Handbooks/Orientation procedures
- Review of satisfaction surveys
- Photos of locks installed on bedroom doors
- Copy of employee handbook/HIPAA training
- On site review/interviews with waiver participants
- Other as deemed necessary

Heightened Scrutiny (HS) Process

The HS process is managed by MDHHS for all residential and non-residential settings presumed isolative and/or institutional

- MDHHS contracted with MSU to gather evidence from those settings that desired to pursue HS
- Evidence gathered was reviewed by the Heightened Scrutiny Review Committee (HSRC) who submitted recommendations regarding provider HCB status to MDHHS.
- MDHHS posted all settings believed to be HCB for public comment
- Once all data gathered and reviewed, MDHHS submitted the information for settings believed to be HCB to CMS
- CMS will review and make the final determination of each settings HCB status
- Settings that rise to the level of HS through the ongoing survey process, will be referred to MDHHS for review





Compliance Timeline

- New programs or a new contract must be in immediate compliance and require PIHP Provisional approval prior to the start of services
- Full compliance for all residential and non-residential providers with the HCBS Final Rule is required by **March 17, 2023**
- **Ongoing compliance is required for all residential and nonresidential providers**

Consequences of Non-compliance



Person served must transition to a HCB compliant setting

Alternate funding source will need to be sought

Suspension of the HCB services for the individual

Setting will not be able to receive Medicaid funding for services



Provisional Approval Process

- CMHSP's in coordination with the LRE are to ensure a provisional approval review is completed PRIOR to securing services for a HCBS recipient
 - Instituted October 1, 2017
 - Recently amended to allow PIHP to provisionally approve after consultation with MDHHS HCBS Team a setting that previously would have been denied based on potential Heighten Scrutiny status
- Process allows a new provider or an existing provide with a new setting or service to provide services to HCBS participants pending the full survey process
- Provisional approval is required for:
 - New providers to the CMHSH/Region
 - Existing providers who have changed physical locations
 - Existing provider settings that have new owners, licensees
 - Existing providers who have added services that are new to the region
- **Failure to complete the provisional approval process and the ongoing compliance assessments will result in exclusion from participating in Medicaid or Healthy Michigan Plan funded HCBS services**

How to be compliant for each person served receiving HCB Services

- Assess to determine if there is a health and safety need that requires a modification or restriction to any of the areas of HCB concern
- Correct the issues that restrict or deter choice, privacy, access, and/or freedom of movement
- Document the health and safety reason for modification/restriction in each resident's Individual's Plan of Service (IPOS) and Behavior Treatment Plan (if applicable)
- Document how those without the modification/restriction will overcome the modification/restriction in their IPOS
 - The expectation is that the modification for one person should not impact other participants. If there is a situation where other individuals necessarily are impacted by the needs of another because there is no other possibility, then there must be clear information in the IPOS related to how this is overcome as stated. However, the need for this should be the exception and not the rule.



How settings can be compliant with HCBS

- Increase choices for persons served
- Install privacy, keyed locks on bedroom and bathroom doors (non-locking against egress)
- Include the Summary of Resident Rights with the Resident Care Agreement
- Remove House Rules
- Open the kitchen and access to food, allow individuals served to choose what, where and when they desire to eat, cook meals (unlock cupboards and refrigerator)
- Allow visitors of the individual's choice any time



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- Allow individuals the freedom to move about inside and outside of the home without barriers
 - Provide all necessary assistance and support with care and medications in a private setting
 - Do not talk about individuals served outside of a private office/room
 - Encourage and allow individuals served to decorate/furnish their room
 - Encourage and allow individuals access to the laundry room
 - Encourage and allow individuals served to choose their own clothing



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- Allow individuals served access to their own money and personal items
 - Encourage and allow individuals served to develop and control their own daily schedule including personal care times, medical appointments, activities, outings, etc.
 - Encourage and allow individuals served to participate in legal activities in which they meet the legal requirements
 - Encourage and allow individuals served to engage in their broad community as desired
 - Ensure all modifications/restrictions are clearly assessed and documented in the Individual Plan of Service

Life Choice Form

- Cannot be used as a standalone document
- May be used as supplemental documentation to support choices and acknowledgement of HCBS Final Rule
- Settings can complete and send to SC/CM to include the information in the IPOS
- Can be embedded into the IPOS document
- Providers need to establish relationships with SC/CM to be able to creatively develop strategies for HCB compliance
- Providers must have a current copy of each persons served IPOS/BTP's

Ongoing HCBS compliance expectations



Continued HCBS survey process

Surveys to continue as directed by MDHHS which could result in:

- Corrective Action Plan for HCBS oversights
- Validation of survey responses
- HS Process review by MDHHS



LRE Quality Facility Reviews

Annual review by Facility Review Team which could result in:

- Corrective Action Plan/Workplan of Deficiencies

Questions



References

- MDHHS Medicaid Chapter Home and Community Based Services
- MDHHS Statewide Transition Plan version 5.3
- MDHHS- LARA Joint Guidance Document
- Home and Community Based Services Final Rule
- MDHHS Heighten Scrutiny

[Home and Community Based Service HCBS Transitions Website](#)