Compliance with New 1915(c) Home and Community-Based Medicaid Waiver Regulations

Provider self-assessment of settings
Changes to federal 1915(c) waiver regulations re: HCB settings

• Emphasis not just on quality services, but on *quality of life* for recipients of waiver services;

• CMS-defined “home and community-based settings in which services may be provided;”

• Added protections for recipients in provider-controlled or operated residential settings
Changes to federal 1915(c) waiver regulations re: HCB settings

Home and Community-Based Settings

- Requires the state to verify that all recipients of Medicaid home and community-based waiver services receive those services
  - in integrated community settings,
  - selected by the recipient from among setting options, including non-disability specific settings,
  - appropriate to their needs, and
  - that those settings provide “full access” to the benefits of community living.
The federal Center for Medicare and Medicaid (CMS) has clarified that “full access to the benefits of community living” means:

“the same degree of access as individuals not receiving home and community-based services, including opportunities to:

• seek employment and work in competitive, integrated settings;
• engage in community life;
• control personal resources;
• receive services in the community”
Home and Community-Based Settings

CMS-defined qualities of a “home and community-based setting:

- Physically accessible;
- Choice of roommates;
- Freedom to furnish and decorate;
- Freedom and support to control schedules and activities;
- Access to food (snacks) at any time;
- Visitors at any time
Home and Community-Based Settings

• In a provider-owned or controlled residential setting the following *additional* conditions must be met:

  • Must be rented or occupied under a “legally enforceable” agreement such as a lease or rental agreement;
  • Have the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the state;
  • Privacy in sleeping or living unit;
  • Entrance doors lockable by the individual with only appropriate staff having keys to doors.
Steps to State Compliance

• Assess the extent to which current State statute, regulation, and policy ensure compliance with CMS regulations
  • SDS has completed a review of state regulations governing waivers, ALH, foster homes;
  • Identified initial changes SDS must make to be in step with federal requirements;
  • Changes will be made in future regulation project;
  • New or amended requirements will be added to ongoing monitoring and oversight activities
Steps to State Compliance

• Identify providers that may have deficiencies in settings where home and community-based services are provided
  • Providers identified by SDS Provider Compliance and Certification Unit;
  • Consultation and site visits made;
  • Collaborative analysis of setting issues;
  • Technical assistance provided
Steps to State Compliance

• Verify that recipients are receiving waiver services in home and community-based settings
  • Provider Self-Assessment of Settings Survey
  • Targeted interviews
  • Site visits
  • Plan of Correction
  • Ongoing monitoring