



STATE OF MARYLAND

DHMH

Maryland Department of Health and Mental Hygiene

*Larry Hogan, Governor - Boyd Rutherford, Lt. Governor - Van Mitchell, Secretary*

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To: CMS Rule - DDA Transition Team  
DDA Licensed Services Providers  
Coordination of Community Services Providers  
Fiscal Management Services Providers  
Support Brokers

From: Bernard Simons, Deputy Secretary  
Developmental Disabilities Administration

CC: Office of Health Care Quality  
DDA Staff

Date: September 23, 2015

Re: CMS Community Rule

The Developmental Disabilities Administration (DDA) has been sharing information regarding the Federal Center for Medicare and Medicaid Services (CMS) "Community Rule." The intent of the Community Rule was to ensure that individuals receiving long-term services and supports through home and community based service (HCBS) programs under the 1915(c), 1915(i) and 1915(k) Medicaid authorities have full access to benefits of community living and the opportunity to receive services in the most integrated setting appropriate. The Community Pathways Waiver is under the 1915 (c) authority. Therefore, the new rule and requirements affects all individuals currently receiving services, including those self-directing, under Community Pathways.

Prior to finalizing the Community Rule, CMS took multiple actions to seek public input so that the final regulations reflected heavy stakeholder input as seen below:

- HCBS services were first introduced in 1981 by the Omnibus Budget and Reconciliation Act of 1981 (Pub. L. 97-35, enacted August 13, 1981).
- On April 4, 2008, CMS published a proposed rule to amend regulations to implement HCBS under the Deficit Reduction Act.
- On June 22, 2009, CMS published an advance notice of proposed rulemaking (ANPRM) in the Federal Register (74 FR 29453).
- CMS proposed language for "settings in which HCBS could be provided" to elicit further public comments under 1915 (k) on February 25, 2011 and 1915 (i) on May 3, 2012.
- On April 15, 2011, CMS shared comments related to questions posed by the ANPRM in the Federal Register (76 FR 21311-21317).
- CMS received and reviewed 1,653 comments from State Medicaid agencies, advocacy groups, health care providers, employers, health insurers, and health care associations.

- On January 16, 2014, CMS published the final regulations titled “Medicaid Program; State Plan Home and Community-Based Services, 5-Year Period for Waivers, Provider Payment Reassignment, and Home and Community-Based Setting Requirements for Community First Choice (Section 1915(k) of the Act) and Home and Community-Based Services (HCBS) Waivers (Section 1915(c) of the Act)” in the Federal Register.
- A summary of each proposed provision, public comments received, and CMS responses to the comments are noted within the Final Community Rule (CMS 2249-F and CMS 2296-F).
- The Community Rule effective date was March 17, 2014 with states community settings requirements full compliance by March 17, 2019.

Attached is an overview of the key elements. Additional information about Maryland’s efforts associated with compliance with the rule is on the DDA website at:

<http://dda.dhmh.maryland.gov/SitePages/HCBS.aspx>