

# **Home and Community Based Settings Transition Project Advisory Taskforce Meeting April 8, 2015**

**Welcome and Introductions:** Darlene Cray, Cynthia Gaudreault, Mary Beth Smaha, Chris Xelmer, John Fenley, David Ouellette, Lisa DiMartino, Adrienne Mallinson, John Richards, Ryan Donnelly, Cheryl Steinberg, Deb Fournier, Kaarla Weston, Dan Klein, Mary Maggioncalda, Linda Bimbo, Susan Orr

## **Advisory Taskforce Overview:**

- Transition Plan Overview
  - CMS released the final rule last year, approximately 1/2014. States have been given 5 years to complete this process. We have four remaining years.
  - A brief review of the new settings requirements was provided, using the slide deck, which will be uploaded to Box.
  - We have been learning from other states (particularly Georgia) with regard to the process they used, as well as feedback from CMS. This information has been very useful in our process. We also used their assessment tools to help drive the development of NH's provider assessment tool.

## **Provider Assessment Review**

- The draft of the Provider Assessment was given to the group for review and input.
- NH specific document utilized questions from eight other states and customized the tool for NH.
- CMS does not expect that everyone is in compliance today. The task is to evaluate and ensure that the compliance process is begun and completed in the 5 year span.
- This is a multi-step process. Ideally, participants will contribute to this process now; and later with a participant assessment.
- This will be analyzed and converted into a report that will eventually drive the compliance process.
- Questions, comments, and concerns were received. (see below)
- This is not final yet. A copy of the next draft will be sent to the Taskforce. We will run a pilot of this with a small group of providers, receiving more input, before the final goes out to all providers.

## **Participant Assessment**

- We will be developing an assessment for participants that will be used across all three waivers. (DD, ABD, CFI) To date, the IHSwaiver is considered exempt per CMS guidance.
- There is a lot of information that has already been garnered through the National Core Indicator survey, and this information will be used.
- No one individual will be required to participate. We will make it as user friendly as possible.
- Georgia used the case manager to assist in completing the assessment.
- There is no requirement for anyone to complete this; although the information will be invaluable in this process.
- Comments/Recommendations/Questions about the provider self-assessment tool:
  - Some people will need assistance in completing this, and we want to make sure that the assistant does not influence the answers.
  - People who administer the participant survey need to be neutral, and use people first language.
  - For NCI, the proxies for individuals who are non-verbal are usually the guardians.
  - It was suggested that the state may want to consider reaching out to the advocacy groups for each area to provide the proxy service to complete the participant survey.
  - It was suggested that electronic and non-electronic surveys should be available in the event individuals who wish to participate do not have access to a computer.
  - It was noted that the list of individuals who receive waiver services is available via the State.
  - A CFI provider shared that in her opinion, people feel comfortable with their case managers and their living location, and the survey should be conducted in that setting.
  - It was suggested that ServiceLink may be a resource for completing the assessment.
  - Service coordinators can assist with DD and ABD individuals. Case managers for the CFI waivers.
  - Training for service coordinators and case managers should be provided regarding assisting with completing the assessment.

- Document choice of settings offered to individuals:
  - DRC said not reflective of nondisabled settings
  - hypothetical vs. the reality. In summary, a provider might suggest the person has access to the greater community but in reality the participant may be limited based on staffing. We need to capture that data.
- A concern was raised regarding how staffing impacts opportunities to access the community. For Example, within a four-person staffed residence, someone may not be able to attend church due to a lack of staffing.
- One self advocate noted that the participant survey may need to be amended to include more “Defined response areas”.

**Question.** Regarding funding. The Advisory Transition Task force wanted to know what talking points to request increased funding.

**Answer.** First, we must gather and analyze the data from the providers and the participants and move along following our transition plan steps. We will then summarize our findings and identify both regulatory and operational recommendations and timeframes for compliance. It is too soon in the process to discuss funding enhancements.

**Question.** Does the facility get asked if they are on the same grounds?

**Answer.** The IOD will review the questions and see if this is specifically covered on our survey.

**Question.** Regarding residential care 804 and 805 on same grounds?

**Answer.** CMS will be providing greater clarity around this question as we move forward.

**Question.** Is four-person group home an institution?

**Answer.** For the purpose of this discussion we will review elements of compliance versus answer that larger question.

**Question.** CMS purposes – ask if elements presumption of “institution”?

**Answer.** We will need to further discuss and research CMS’ language re: institutions.

**Comment.** One member noted that she liked the way the state of New Hampshire tool was modified in terms of language.

**Comment.** One member noted that in reality, what we can afford systematically may drive individuals’ choices.

**Answer.** Four different waivers – language needs to span all waivers for the providers.

**Question.** Can we have a category that says sometimes?

**Answer.** Probably not.

**Question.** Are people living at home exempt from the setting requirement?

**Answer.** There has been clarification that would lead us to believe that CMS is making exemptions for people living at home regarding the residential component of the rule but not the non-residential elements.

**Recommendation.** Noted regarding language: “desired”

- Examples for clarifications requested regarding:
  - guests
  - transportation
- non-disability specific settings – DRC clarification noted.
- Regarding transportation:
  - barriers – # of staff, cost of insurance to cover vehicles.

**Question.** Re: Public transportation information vs. resources. For many individuals on the ABD waiver, for that matter any waiver, information alone may not be sufficient. What exactly does CMS want us to be asking.

**Answer.** Linda will check the intent of CMS.

- ADD: how successful are you at obtaining transportation? (Breakdown questions because you may have two questions not one)
- The expectations cannot be greater than what is expected for the general population. Example of new person using MCO services: Is it possible “Nashua transit” with MCO, she has a car service that travels her to daycare.
- Re: Medical appointments – MCOs are only responsible for non-emergency medical care/transportation.
- In paid employment setting, need comparable opportunities as peers. Employment data results may be helpful to see how many people are employed. NCI surveys ask about access to transportation.
- Regarding choice of roommate:
  - can individuals make a request to change roommates? Stories about why not possible. We need yes/no, why or why not. Providers might have to add policies in that section of provider tool so we know how to respond and if remediation efforts may include policy changes.

- Does facility comply with patient's Bill of Rights? 14 day notice. CFI providers explained some of the challenges and complexities with roommate issues.
- Questions regarding individual growth vs. choices. For example, an opportunity may be presented on a Tuesday but the individual wants to attend Thursday. CFI providers asked to what extent does choice mean? Does this mean choice of waking and bedtime? Will the broadness work against service providers to answer them. Linda, reminded team of the scope. Taskforce and state will gather the info and put together the transition plan. We will ask for recommendations and public input on the plan. It may include regulation and policy changes.
- This plan will be the result all of the info we have gathered and will be provided to this taskforce for feedback.
- Personal funds can mean different things to different people. We will need to clarify EARNED INCOME and access to Personal Needs Allotment versus Room and Board Payments, Cost of Care payments, etc...
- Re: eating when and where, ie. Safety reasons may eliminate access, provider would need to have an approved plan. HRC plans will need to be referenced by using their approval date by providers on the tool.
- Re: insurance company may not want resident in gas kitchen. For CFI res cares.
- Re: snack at times of choosing: In Res care settings- safety and security are implicated. Lunch will be served at noon. The reality is we will gather the data that interferes with compliance and create plans, operationally and fundamentally to gain compliance with CMS expectations. Providers can reiterate what they currently do but must be open to the idea that changes may be necessary to maintain their funding. We do not yet know what those changes may be but we will through this process be researching ideas and sharing practices.
- RECOMMENDATION. The tool itself should have Imbed comments in word document so people have the same information when filling out the provider tool.
- Re: informed choice, free from coercion-filing complaints- ask questions so providers would understand intention. Do they know how to file a complaint, and, can they do so without fear of retribution?
- Individual needs or preferences may indicate cable. BDS clarified that cable is not a waived covered service.
- Participation in Person centered planning- Person has been given the greatest amount of autonomy to create plan and use people chosen by the individual to craft

an active plan. Under CFI the person counts on the service coordinator to write the plan. This will be the premise for regulatory changes to their rules.

- Rules for case management under CFI will be changed to include language and expectation of person centered planning. That is out of the scope of this part of the final rule. This task force has a narrow but deep scope. A visual reminder of our scope was handed to participants.
- Re: Access to move around one's home. A question on the tool asks, Is access limited due to health and safety reasons? There is an area for provider to include info. Ie. Game room on second floor that isn't accessible.
- Re: Obstructions to lips and doorways- if person can access the house.
- Re: Access to the community- Add question: CMS intention, located among other residential or commercial settings, not on the grounds of an institution.
- Re: Health Information, clarified expectation of confidentiality.
- Re: Is all info kept private? CMS intention clarified, posting schedules can be institutional.
- Re: Grooming, personal assistance provided in a dignified manner, personal care supports.
- Re: Decision making- supported to exercise autonomy- very broad question. Some questions are not universally yes and no, may depend on staff.
- Re: Communication- Are EFC, paid staff (including management personnel) , direct support providers, respectful and dignified while providing support. Additional language needed to capture full extent of question.
- Re: Practices not talking about individuals in the presence of others as if they are not there. Language is important. The IOD continues to refine the language on the individual and provider tool.
- Re: Under settings agreement, if applicable, legally enforceable unit... re: lease, landlord tenant laws, issue about current status of discharge laws, this is an issue currently. Policy for discharge/procedure. It is currently a notice not a judicial process. As part of this process, we have looked at every single regulation. Michelle Winchester was very thorough. This will be part of all of the information.
- We would like to convene a smaller group – one representative from each area – to develop the first draft of the participant assessment. The first draft needs to be completed by the May Taskforce meeting. (John R., Mary Beth, Darlene)
- We will send out samples from other states. There is also a website, where people from other states are compiling resources of what they are doing. We will send that link to the group. ([hcbsadvocacy.org](http://hcbsadvocacy.org)) select State resources. This site includes questions from other states, with the answers from CMS.

**Other Business:**

- Toolkit is being compiled for this group. Instructions will be sent to group regarding Box, which is a place dedicated to this Taskforce, and will contain all the documents and information needed for this group.

The official website for the waiver transition program, where all the documents and information can be found, is: <http://www.dhhs.nh.gov/ombp/Medicaid/draft-transition-framework.htm>