



# North Bay Regional Center CMS Final Rule Training

Developed by ACRC and NBRC



# What We Will Review Today

- ▶ CMS: Federal Center for Medicare + Medicaid Services
- ▶ HCBS: Federal Home & Community Based Services Waiver
- ▶ 'Final Rule'
- ▶ Impact on Individuals Served
  - ▶ Informed Choices
  - ▶ Least restrictive environments + Community Integration
- ▶ Impact on Vendors
  - ▶ Self Assessments
  - ▶ Settings/Heightened Scrutiny
- ▶ Impact on NBRC
  - ▶ Person Centered Planning
  - ▶ Documentation



# Definition: CMS

- Centers for Medicare & Medicaid Services (CMS):  
The federal agency that oversees distribution of funds through the Medicaid Home + Community Based Services waiver program





# Definition: HCBS

## ➤ HCBS Waiver requirement:

Services for people who receive HCBS funding must be provided in a person's home or community, rather than in an institution or segregated setting.

Examples of services that must comply with this requirement include regional center-funded care homes, day programs, and employment programs



# Definition: HCBS Final Rule

- CMS regulation regarding the “settings” where HCBS-funded services are provided, both residential and non-residential
- Services and supports must be provided in integrated, non-isolating settings



# Definition: HCBS Final Rule

- Defined based on an individual's experience and outcomes in the setting, not just its location, geography, or physical characteristics
- Ensure individuals receiving services have full access to the benefits of community living.
- Meaningful community integration
  - The most integrated setting does not just mean *in* the community; rather, it means to be an integral part of their community based on choices and desires



# The Final Rule has five main components:

1. The setting is integrated in and supports individuals to access the **community**.
  - ✓ Individuals receiving services must have the SAME access to the community as anyone else.



# The Final Rule has five main components:

2. The setting is selected by the individual from among setting options, as documented in a **Person-Centered Plan**



# The Final Rule has five main components:

3. Settings and services must be designed to protect and promote individual's **rights**—to privacy, dignity, respect, and freedom from coercion and restraint



# The Final Rule has five main components:

4. Services must promote **independence** in making life choices, including daily activities, physical environment, and with whom to interact



# The Final Rule has five main components:

5. Supports individual informed **choice** regarding services and supports and who provides them



# Additional components for residential settings:

6. A legally enforceable agreement between the provider and individual that allows them to own, rent, or occupy the residence and provides protection against eviction



# Additional components for residential settings:

7. Privacy in units, including lockable doors, choice of roommates and freedom to furnish and decorate units



# Additional components for residential settings:

8. Options for individuals to control their own schedules, including access to food at any time



# Additional components for residential settings:

9. Individual's freedom to have visitors at any time



# Additional components for residential settings:

10. Setting is physically accessible to the individual.



# Requirements: Person-Centered Planning

## Processes:

- Directed by the individual to the maximum extent possible
- Planning team chosen by the individual
- Occurs at least annually at time/places convenient for the individual.
- Reviewed/revised when circumstances change or at the request of the individual.



# Requirements: Person-Centered Planning

## Documentation:

- Balances what is **important to** with what is **important for** a person
- Decisions are based on strengths, preferences, needs and desires, and for residential settings, how much money the individual has to pay for rent and food



# Requirements: Person-Centered Planning

- The plan should show that where the person lives and spends time is:
  - chosen by the person
  - integrated
  - supports full access to the greater community
- Specific options are mentioned in the person-centered plan, and should relate to individual desired outcomes



# Requirements: Person-Centered Planning

- Includes the method for an individual to request updates or changes to their service plan.
- Reflects cultural considerations.
- Written in plain language.



# Definition:

## Community-Based Setting

A setting integrated with the surrounding community

- Provides people in the setting the same degree of access to the community as anyone in the community
- Includes opportunities to work in competitive integrated employment, engage in community life, control personal resources, and receive services in the community



**What does  
“community” mean  
to you?**

**What does the HCBS  
Settings Final Rule  
mean to you?**

**What makes you feel  
respected?**

**What types of activities  
do you like to do in  
your community?**

**What do you like to  
do during the day?**



# Definition: Institutional Setting

- People have the same experiences as people who are in institutional settings
- Keeps people with disabilities segregated from the larger community and people without disabilities
- Limits access to the community to only certain times or only as part of a group
- Limits choice of community activities and places to visit



# What are “settings that isolate”?

- Individuals in the setting are primarily people with disabilities and their staff
- Settings designed just for people with disabilities, or people with a certain type of disability
- Settings designed to provide people with disabilities multiple types of services and activities on-site, that would otherwise be available in the greater community



# What are

## “settings that isolate”? (cont.)

- People in the setting have limited, if any, interaction with the broader community
- Settings that use practices used in institutional settings or are deemed unacceptable in Medicaid institutional settings (e.g. seclusion or restraint)



# Examples of settings that isolate

- Farmsteads
- Gated Community
- Residential Schools
- Clustered Settings



# Why Change?

The most important reason is so that people can live a full life!

It is our job to support people to make informed choices about:

- Working in Competitive Integrated Employment
- Engaging in community life
- Support services that foster relationships
- Controlling personal resources



# Why Change? (cont)

- Ensure that services are received in the most natural setting possible
- Add protections for a person's choices of services
- Improve the quality and outcomes of services



# Changes could include:

- Getting training to ensure that planning teams understand the philosophy and expectations of Person-Centered Thinking
- Increasing documentation of individual choices and needs in the IPP and ISP
- Changing where and how service is delivered
- Developing a more outcome-oriented focus



# Offering individuals served addt'l choices

- Receiving services in a more integrated setting
- More opportunities to engage in community life
- Option for a private unit in a residential setting
- Option for living in and receiving services in one's own apartment or home
- Opportunity to work and receive employment supports in a typical job in the community



# Mandate:

In order for California and the other states to continue to receive federal funds, it must develop an approved State Transition Plan by March 17, 2022, describing how HCBS-funded services will transition to be aligned with new federal regulations.

- *By that date, providers will need to demonstrate that they are implementing all necessary changes to their services*



# State Transition Plan (STP)

All states must develop a State Transition Plan (STP) to show how settings will be able to meet the new requirements. California has submitted a draft STP with public comment.

The draft has now been **approved** by CMS.

You can access the approved STP draft here:

<http://www.dhcs.ca.gov>

In Search field in right hand corner, type in "STP".



# How will settings be assessed?

Once California's final State Transition Plan (STP) is approved by CMS, the assessment process will begin:



- Provider self-assessment survey
- On-site assessment team (DDS & RC)
- Individual / stakeholder input

# Assessment Outcomes:

The results of the assessment will indicate if providers are:

- Clearly compliant
- Will need to make changes (presumed not compliant, or not clearly compliant)
- Clearly not compliant



# If a setting is clearly not compliant:



- Changes can be made to setting (remediation)
- The state provides justification to CMS through the heightened scrutiny process
- Clients may be moved to a different setting



# Definition: Heightened Scrutiny

If a setting is presumed not to be compliant, the state may submit evidence demonstrating why the setting:

- does not have the qualities of an institution
- does meet all the qualities for being home and community-based

**EVIDENCE**



# Heightened scrutiny includes:

- How the setting supports full access into the community
- What strategies are used to overcome institutional characteristics
- Information received during the public input process
- It should NOT focus on the traits of the individuals served, or reasons why institutional characteristics are justified

# What does this mean for us?

- There are thousands of providers in the state of California that fall under this rule
- Many NBRC vendors will need to make updates to services and/or procedures
- NBRC will work with vendors to achieve this: we are a team!



# Hurdles to Overcome:



- Being embraced by the community
- Need for more options
- Ratios
- Rates
- Location

Life's problems  
wouldn't be called  
"hurdles" if there  
wasn't a way to get  
over them.

~Author Unknown



# Is the goal for every program to end up looking the same?

## NO...

- Every program is different, just as every person is different
- We need a variety of programs to fulfill people's preferences and needs



The federal rules do allow for some flexibility when:

1. There is an assessed need
2. The need is described and addressed in the Person Centered Plan
3. The need is reviewed regularly

# Now what?



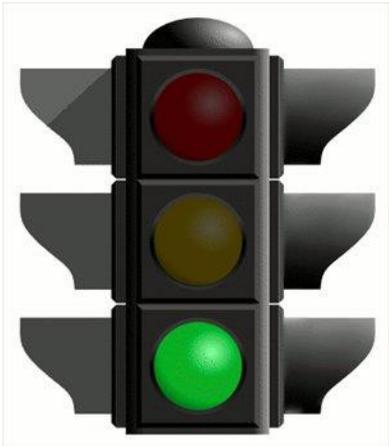
Think about changes you can make

- Now
  - In the future
- 
- Person-Centered Thinking
  - Documentation
  - Provider Self-Assessment Survey
  - Get involved—forums and trainings



Don't wait -  
the time is  
*now* to make  
changes!

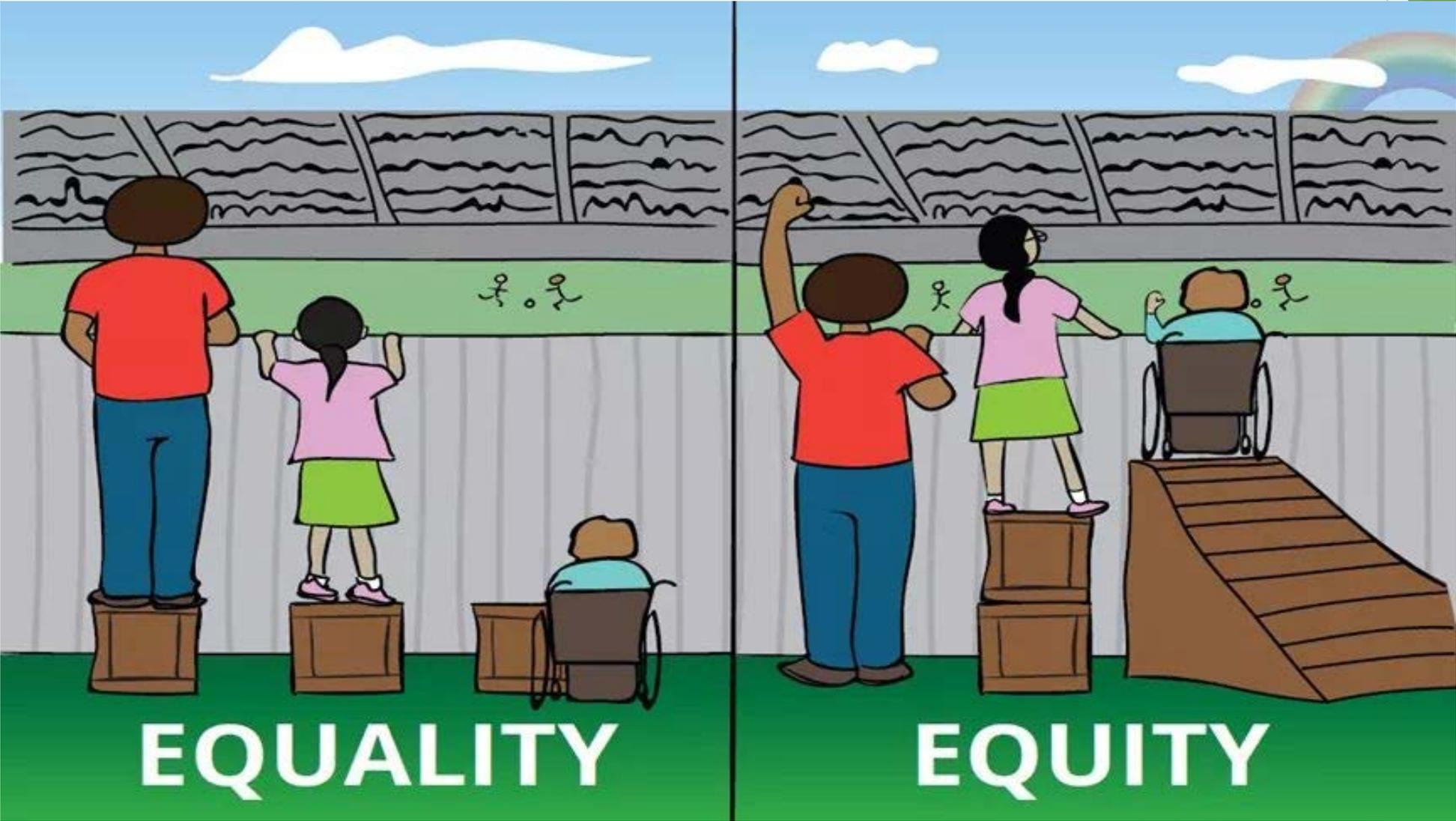
We can help!



# The good news:

- New possibilities
- Support for people served will be more individualized
- New \$
- Good for individuals we serve, and good for our greater communities







# IN REVIEW....

- ▶ CMS
- ▶ HCBS
- ▶ 'Final Rule'
- ▶ Impact on Clients
  - ▶ Informed Choices
  - ▶ Least Restrictive Environments
- ▶ Impact on Vendors
  - ▶ Self Assessments
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- ▶ Impact on NBRC
  - ▶ Person-Centered Planning
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# References:

- HCBSadvocacy.org FAQ Sheet
- HCBSadvocacy.org Toolkit: The Medicaid Home and Community Based Services Settings Rules: What You Should Know!
- HCBSadvocacy.org Toolkit: Home and Community Based Services Rules Q&A: Settings Presumed to be Institutional & the Heightened Scrutiny Process
- <http://www.acl.gov/Programs/CPE/OPAD/docs/What-the-HCB-rule-means-for-you.pdf>
- <http://www.dds.ca.gov/HCBS/docs/faqRules.pdf>



# HCBS Provider Compliance Funding Guidelines

Fiscal Year 2019-20

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# Background



- HCBS Rules focus on the **nature** and **quality** of **individuals' experiences** and not just the settings where the services are delivered.
- The 2019 Budget Act contains \$15 million to fund necessary changes across the state.

# Provider Concepts



- Utilize input from individuals served to inform the development of the project
- Should offer baseline data
- Explain how progress will be measured (e.g. clear outcomes and methods for achieving/tracking)

# Provider Concepts



- Demonstrate how changes will impact individuals in offering more choices/options and opportunities in the community.
- Clearly links how project brings program into compliance with the federal requirement currently out of compliance.

# Examples of Previously Funded Concepts



- Outreach re: HCBS rules for individuals and members of their support team.
- Effectively support people on a more individualized basis to overcome barriers to community integration and employment, as appropriate.
- Prioritized preferences of individuals served and utilizing their feedback in development of the concept.
- Train-the-trainer certification in person-centered planning/thinking

# Application Process and Timeline



1. Vendors must submit completed concepts to NBRC by November 22<sup>nd</sup>, 2019
2. NBRC submit completed concepts and evaluations to DDS by December 13<sup>th</sup>, 2019.
3. DDS will review concepts and notify regional centers of selections by February 21<sup>st</sup>, 2020.
4. Regional centers and vendors whose concepts were selected may enter into a contract agreement.

# Vendor Concept Submission



Remember...

- Completed compliance evaluation must identify requirements not being met
- Closely review Attachment F (funding guidance details)

# Vendor Concept Submission



Remember...

- Use the current 2019/20 grant application form.
- Use provided budget template.
- Can provide supplemental docs to back-up cost (e.g. quotes, consultant estimates)

# Vendor Concept Submission



Remember...

- Involvement of individuals, their preferences and feedback in the concept development
- Explain why this project is necessary
- Have a plan for sustainability beyond grant

# Person-Centered Practices



Begin with essential questions, such as:  
“**Who is this person?**” and “**What is important to him/ her?**”

Reflect genuine respect for the **dignity, strengths,** and **individuality** of the person.

Change common patterns of community life, moving beyond community involvement to real **community engagement, integration,** and **natural supports** to assist the individual to achieve personal goals and live his/her desired life.

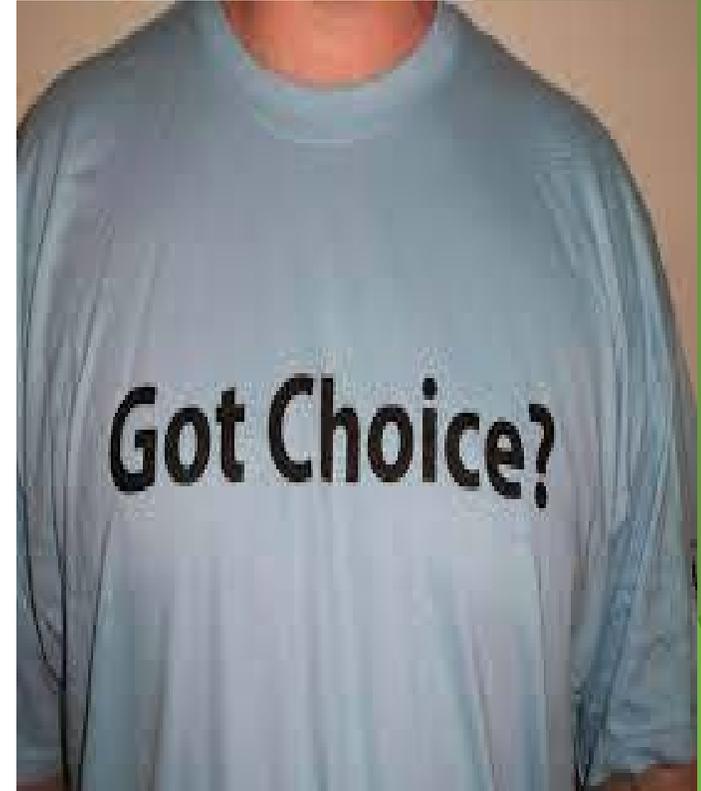
Challenge practices that separate people and support a person to be as independent as possible and to have the skills to **advocate for themselves.**

Require clarity, courage, and commitment to support individuals in **defining and pursuing a desirable future.**

# Am I choosing?

1. Who provides my paid supports?
2. Where I live?
3. Who I live with?
4. What I do with my time and do I want a paid job (or a different one)?
5. What do I do with my resources?

If people do not know the answers, it is our responsibility to provide the support to find the answers through discovery and exposure.





Any further questions:

Contact: Ashley McConnell  
Federal Revenue Programs  
Supervisor at NBRC  
256-1294  
[ashleym@nbrc.net](mailto:ashleym@nbrc.net)