



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 Clients
 - ▶ 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
- Defined based on an individual’s experience and outcomes in the setting, not just its location, geography, or physical characteristics



The Final Rule has five main components:

1. The setting is integrated in and supports individuals to access the **community**.
 - ✓ Regional Center clients 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 who provides them



Additional components for residential settings:

6. A legally enforceable agreement between the provider and client that allows the client 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



Requirements: Person-Centered Planning

- The plan should show that where the person lives and spends time is chosen by the person, is integrated, and supports full access to the greater community
- Specific options are mentioned in the person-centered plan, and should relate to individual desired outcomes
- Balances what is **important to** with what is **important for** a person
- Decisions are based on support needs, preferences, and for residential settings, how much money the individual has to pay for rent and food



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



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 clients have full access to the benefits of community living
- Ensure that services are received in the most natural setting possible
- Add protections for clients' 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 Planning
- Increasing documentation of client choices and needs in the IPP and ISP
- Changing where and how service is delivered
- Developing a more outcome-oriented focus



Offering clients 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)
- Client / 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?



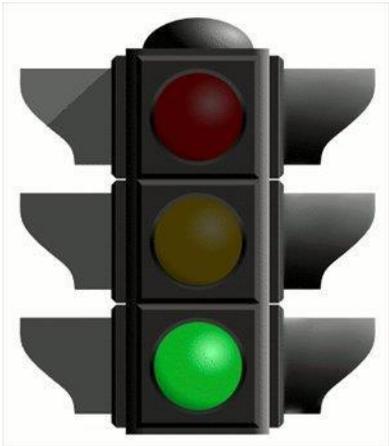
Think about changes you can make

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



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

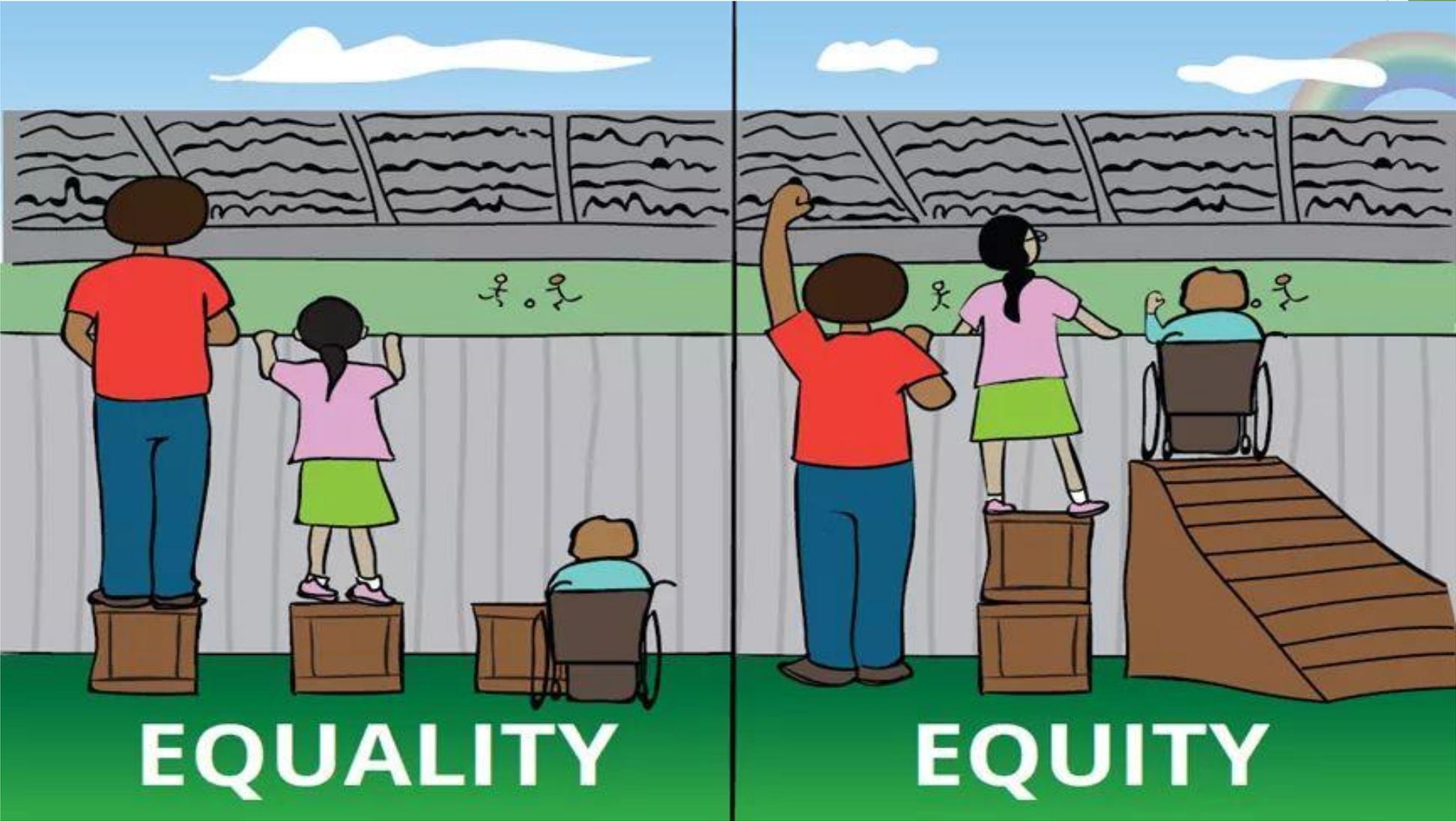
We can help!



The good news:

- New possibilities
- Support for clients will be more individualized
- New \$
- What is possible, not just what is available
- Good for our clients, good for our communities







IN REVIEW....

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 - ▶ Least Restrictive Environments
- ▶ Impact on Vendors
 - ▶ Self Assessments
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- ▶ Impact on NBRC
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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>



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