

KENTUCKY

Cabinet for Health and Family Services

HOME AND COMMUNITY BASED SERVICES (HCBS) FEDERAL FINAL RULES

STAKEHOLDER UPDATE MEETING
APRIL 27, 2017

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Potential Federal Changes to the HCBS Final Rules

The new Secretary of the U.S. Department of Health and Human Services (HHS), Tom Price, and Centers for Medicare and Medicaid Services (CMS) Administrator, Seema Verma, are supportive of the principles of integration, autonomy, and person-centered planning found in the Home and Community Based Services (HCBS) Final Rules.



The Secretary and Administrator published a letter outlining their goals for state Medicaid programs, with a dedicated section for the HCBS Final Rules. Key components include:

- CMS will consider giving states additional time for states to comply
- CMS will continue to work to improve engagement with states
- CMS will promote increased state involvement in assessing setting compliance.

The Commonwealth will continue moving forward with our HCBS Final Rules implementation plan until there are confirmed changes to the process or timeline.

Statewide Transition Plan Update

Kentucky continues to update its Statewide Transition Plan (STP) based on its progress in evaluating providers and settings. As of 4/10/17, Kentucky remains one of the 27 states that have received initial approval of their STP.

Recent Updates

- Updated the STP with the Commonwealth's progress on assessing providers and identifying settings for heightened scrutiny
- Published STP for public comment from 12/19/16 through 1/17/17 and summarized comments for inclusion in the STP
- Submitted the revised STP including summarized public comments to CMS on 2/1/17

Next Steps

- Receive feedback from CMS on additional information that may be needed to receive final approval

Heightened Scrutiny – Kentucky’s Process

Over the past year, Kentucky has completed site visits to all category 4 settings presumed not to be home and community-based. Based upon input from stakeholders, Kentucky has established its guidelines for organizing and submitting settings subject to heightened scrutiny to CMS.

Evidence Summaries

Evidence for each setting will be summarized into a 10-page evidence package that includes information from the site visit as well as documentation submitted by providers.

First Round Submission

Kentucky’s first round heightened scrutiny submission includes 23 residential and non-residential settings that represent all HCBS waivers. Our goal is to receive feedback from CMS on this submission before continuing with the remaining submissions.

Staggered Submission

Kentucky will stagger its submission of the 200 remaining heightened scrutiny settings into groups based on geography.

Stakeholder Review

Stakeholders representing participants, advocates, and providers will review blinded evidence summaries and determine if the setting has demonstrated sufficient home and community-based characteristics to be submitted to CMS for heightened scrutiny.

Public Comment

Evidence summaries will be posted for a 30-day public comment period before submission. For residential settings, the addresses will not be published, but will be made available upon request. Affected participants will be notified of the opportunity to provide comment.

Heightened Scrutiny – First Round Submission Progress

The Cabinet for Health and Family Services (CHFS) has submitted the first round of settings subject to heightened scrutiny to CMS.

Evidence Summaries

- Identified 30 settings for the first round heightened scrutiny submission and created evidence packages for each setting

Stakeholder Review

- Conducted stakeholder group review of the evidence packages for the first round submission
- Determined that 23 of the 30 settings have sufficient evidence of home and community-based characteristics to be submitted for heightened scrutiny

Public Comment

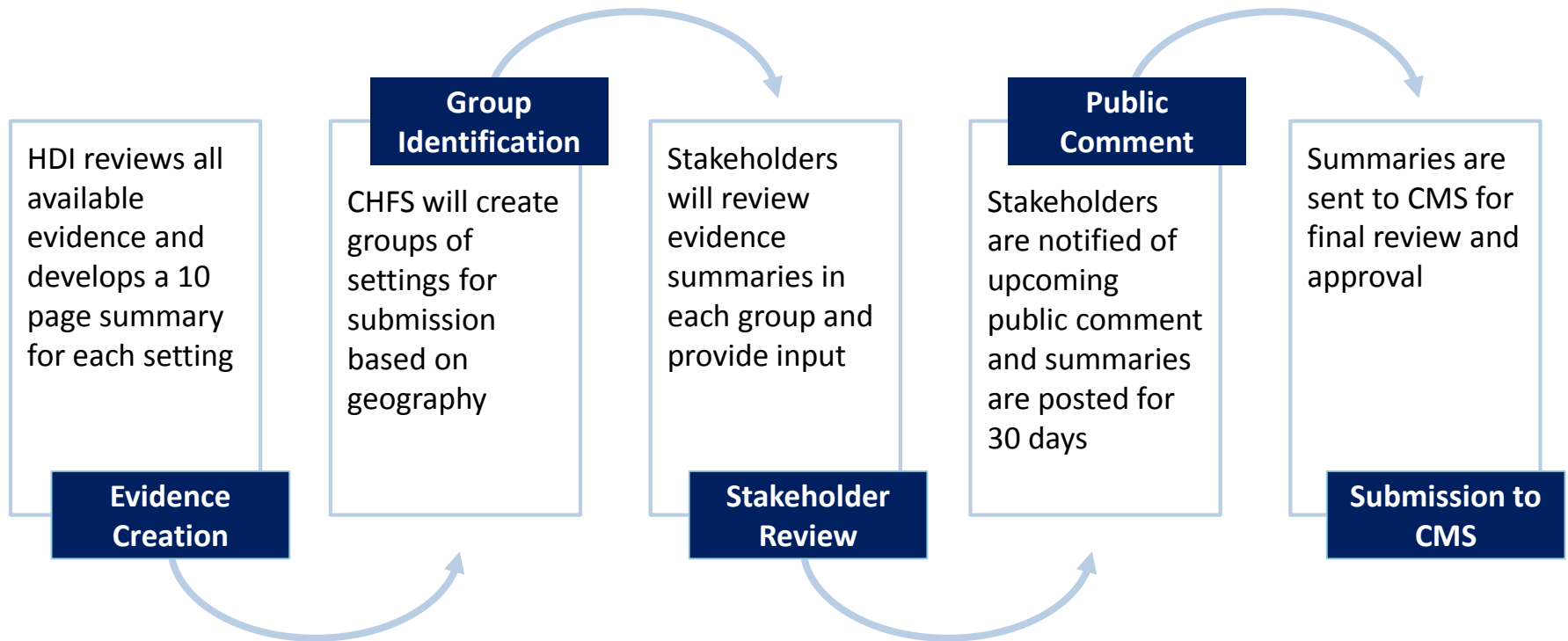
- Distributed communications to all affected participants, guardians, and providers to notify them of the opportunity to provide comment
- Posted 23 evidence packages for public comment
- Summarized comments received and added them to the corresponding evidence packages

CMS Submission

- Submitted the first 23 HCBS evidence summaries to CMS for final review

Heightened Scrutiny – Next Steps

CHFS contracted with the Human Development Institute (HDI) to create the remaining heightened scrutiny evidence packages. CHFS is monitoring HDI's progress and is conducting sampling reviews of their completed evidence packages to ensure consistency.



CHFS anticipates submitting the remaining heightened scrutiny evidence packages to CMS beginning in the summer of 2017. This timeframe is dependent on when CMS provides feedback to Kentucky on the first heightened scrutiny submission.

Monitoring Tools – New Providers and New Settings

Based on CMS guidance, CHFS distributed a provider letter in May 2016 that any new provider or new setting rendering Medicaid HCBS that opens after July 1, 2016 must be fully compliant with the HCBS Final Rules. CHFS developed an internal tool to assist staff in evaluating new providers and new settings for compliance.

Location

- While compliance with many of the HCBS Final Rules components cannot be determined until the provider/setting is operational, staff will evaluate if the new provider/new setting location is permissible
- The following locations are not permissible for any provider:
 - Settings in a publicly or privately operated facility providing inpatient treatment
 - Settings on the grounds of or adjacent to a public institution
- For providers who currently operate settings and are opening new settings, the new setting should not be attached to, border, or be across the street from the existing setting(s)

On-Site/Policy Review

- Some components of the HCBS Final Rules can be evaluated through on-site or policy reviews (locks, accessibility, visitor policy)
- When possible, staff will evaluate provider policies and conduct an on-site review to determine compliance with some of the HCBS Final Rules

Monitoring Tools – Surveys

CHFS will include additional staff and participant questions to existing monitoring tools to capture information related to the HCBS Final Rules. All settings will be evaluated with these survey questions.

Purpose

- The additional survey questions will allow CHFS to collect information about the current compliance of providers and settings with the HCBS Final Rules
- These questions will be added to regular monitoring tools and used in interviews with participants and staff

Content

- The survey questions relate to the settings components of the HCBS Final Rules and focus on the experiences of the participants
- Compliance with some of the settings requirements can be observed by CHFS staff (e.g. freedom to decorate their living unit) and will not require a survey question to determine compliance

Uses

- Survey responses will be logged by CHFS and used to identify trends or areas where technical assistance may be needed
- Aggregated data will allow CHFS to track provider progress in coming into compliance over time

Questions?

We'd Like to Hear from You!

CHFS would appreciate stakeholder input on a number of topics as we continue to implement the HCBS Final Rules. Please send additional comments to CMSfinalHCBRule@ky.gov.



1
Staggered Submission
How should settings be selected for future submission rounds?



2
Feedback on Technical Assistance
What type of technical assistance would be most helpful?



3
Anything Else
Do you have feedback on any other areas of the implementation process?