



Home and Community Based Services for Children with a Life Limiting Illness

Waiver Amendments and Transition Plan

In January 2014, the Centers for Medicare & Medicaid Services (CMS) promulgated a final federal rule (CMS-2249-F and CMS 2296-F) to ensure that individuals receiving long term services and supports (LTSS) through Home and Community Based Services (HCBS) programs under 1915(c) and 1915(i) have full access to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal finances and receive services in the community to the same degree as individuals not receiving Medicaid HCBS.

Additionally, the new rule requires that, at the time HCBS Waiver amendments are submitted, the Department of Health Care Policy and Financing must develop and submit to CMS a transition plan identifying how the HCBS waiver will be brought into compliance with the new definition of the HCBS settings; provide 30 days public notice and comment period; and at least one additional opportunity for public comment.

Home and Community Based Settings

- The setting is integrated in and supports full access to the greater community;
- Is selected by the individual among setting options;
- Ensures individual rights of privacy, dignity, respect, and freedom from coercion and restraint;
- Optimizes autonomy and independence in making life choices; and
- Facilitates choice regarding services and who provides them.

For provider owned or controlled residential settings, the following additional requirements must be met:

- Individuals control their own schedules, including access to food at anytime
- The setting is physically accessible to the individual
- Individuals can have visitors at anytime
- Individuals have privacy in their living or sleeping units
- Units have lockable doors and entrances (with only appropriate staff having keys)
- Individuals who share rooms are allowed a choice of roommate
- Individuals have the freedom to furnish and decorate their living space
- At minimum, the individual has the same responsibilities and protections from eviction that tenants have under state or local landlord/tenant laws; or where such laws do not apply, a lease or written residency agreement must be in place for each resident to provide protections that address eviction processes and appeals comparable to the applicable landlord/tenant laws.

Summary of Waiver Amendments

Targeted Rate Increase

- CLLI requires an amendment to account for the targeted rate increases it received in the 2014 legislative session for several services within HCBS Waivers. The services were identified to have specific needs such as not meeting industry standard rates.

General Rate Increases

- CLLI requires an amendment update rate projections for the 2014 legislative approval of a 2% rate increase for services not receiving the Targeted Rate Increase.

In addition to amending the CLLI waiver, CMS also expects the Department to develop a Transition Plan when amending a waiver that provides assessment, strategies, and timelines for meeting the requirements of the new Federal rules.

CLLI Transition Plan

The Department does not expect to have changes related to the HCBS-CLLI waiver as all of the recipients are children who are served in their family or primary caregiver's home, and the identified limitations in residential settings will not apply to their services and supports. The settings will be evaluated for compliance regarding non-residential settings when federal guidance is available. Noncompliance will be addressed on a case-by-case basis.

GUIDELINES ON SUBMITTING COMMENT

- The Department will have this draft of the Waiver Amendments and Waiver Specific Transition Plans open for public comment from August 20th to September 19th. The amendments and plans will be posted on the Department's website here: <https://www.colorado.gov/pacific/hcpf/hcbs-waiver-transition#WaiverAmendments>
- Individuals may request draft Waiver Amendments and Transition Plan materials via email at HCBS_Rules_Submission@state.co.us
- Comments regarding the draft Waiver Amendments and Waiver Specific Transition Plans can be emailed directly to HCBS_Rules_Submission@state.co.us
- Comments can also be addressed to the following:
ATTN: HCBS Transition
1570 Grant Street
Denver, CO 80203
- All comments will be maintained and responses provided in a regularly updated listening log kept on the Department's website found <https://www.colorado.gov/pacific/hcpf/hcbs-waiver-transition>

The Department commits to incorporating comments, concerns, and suggestions into the proposed transition plan when possible.

