

HCBS IMPLEMENTATION UPDATE

re:con – the convention new beginnings

November 8, 2019 – Grand Traverse Resort

PRESENTER:

■ Todd Culver, CEO – MARO

■ Member, Michigan Department of Health and Human Services HCBS Implementation Advisory Group

■ Chair – Non Residential Provider Readiness Tools Workgroup, part of the IAG

AGENDA

- 2011 CMS Informational Bulletin
- Overview of Final Rule
- Statewide Transition Plan
- HSW Compliance Notifications and Corrective Action Plans
- Heightened Scrutiny
- B3 Services Compliance Assessments and Notifications

AGENDA

- Summary of Process for Assessing and Achieving Compliance
- Alignment with Employment First State Leadership Mentoring Program
 - Provider Transformation
 - Capacity Building
 - Rate Restructuring
 - Seamless Transition
- Challenges and Opportunities
- Discussion, Q & A

CMS Informational Bulletin – 2011

- • Highlights the importance of competitive work for people with and without disabilities and CMS' goal to promote integrated employment options through the waiver program
- • Clarifies that... Outcome and Milestone payments are not in conflict with payment for Medicaid services rendered
- Explains that pre-vocational services are not an end point, but a time limited (although no specific limit is given) service for the purpose of helping someone obtain competitive employment

CMS HCB Setting Requirements – 2014

- The home and community-based setting requirements establish an outcome oriented definition that focuses on the nature and quality of individuals' experiences
- The requirements maximize opportunities for individuals to have access to the benefits of community living and the opportunity to receive services in the most integrated setting

CMS HCB Setting Requirements – 2014

- Is integrated in and supports access to the greater community
- Provides opportunities to seek employment and work in competitive integrated settings, engage in community life, and control personal resources
- Ensures the individual receives services in the community to the same degree of access as individuals not receiving Medicaid home and community-based services

CMS HCB Setting Requirements – 2014

- Person-centered service plans document the options based on the individual's needs, preferences; and for residential settings, the individual's resources
- Optimizes individual initiative, autonomy, and independence in making life choices
- Facilitates individual choice regarding services and supports, and who provides them

HCBS RULE

- The over-arching principle for compliance is to ensure fidelity with the intent that individuals receiving Medicaid-funded HCBS have the opportunity to receive these services in a manner that *protects individual choice and promotes community integration. (2017 Provider Readiness Tools – MDHHS)*

HCBS RULE

- Any setting in which services are provided must have the following 5 qualities:
 - Integrated in and supports full access to the community.
 - Is selected by the individual from among setting options including non-disability specific settings.
 - Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.
 - Optimizes individual initiative, autonomy, and independence in making life choices, including, but not limited to, daily activities, physical environment, and with whom to interact.
 - Facilitates individual choice regarding services and supports, and who provides them.

HCBS Implementation Advisory Group (IAG)

- Established in 2016, IAG will assist MDHHS with implementing the HCBS Rule for Medicaid waiver programs that offer services to individuals with behavioral health needs or developmental or intellectual disabilities. The Implementation Advisory Group will serve three primary purposes:
 - 1. Assist the Department with implementing the Statewide Transition Plan and achieving the principles for implementation: inclusion, autonomy, flexibility, partnerships, transition support
 - 2. Advise the Department on strategies to address the three core elements of implementation: assessment, remediation, outreach
 - 3. Facilitate statewide efforts on educating individuals, providers, and communities

STATEWIDE TRANSITION PLAN

- Michigan received initial approval from CMS in August 2017
- As of 10/15/19, one of 30 states to receive initial approval
- 15 have received final approval
- MI submitted for final approval in 2018

COMPLIANCE ASSESSMENT AND NOTIFICATION PROCESS

- HSW surveys complete, provider notifications complete
- Corrective Action Plans or Heightened Scrutiny
- (b)(3) service surveys complete, provider notifications complete
- Heightened Scrutiny status

COMPLIANCE ASSESSMENT AND NOTIFICATION PROCESS

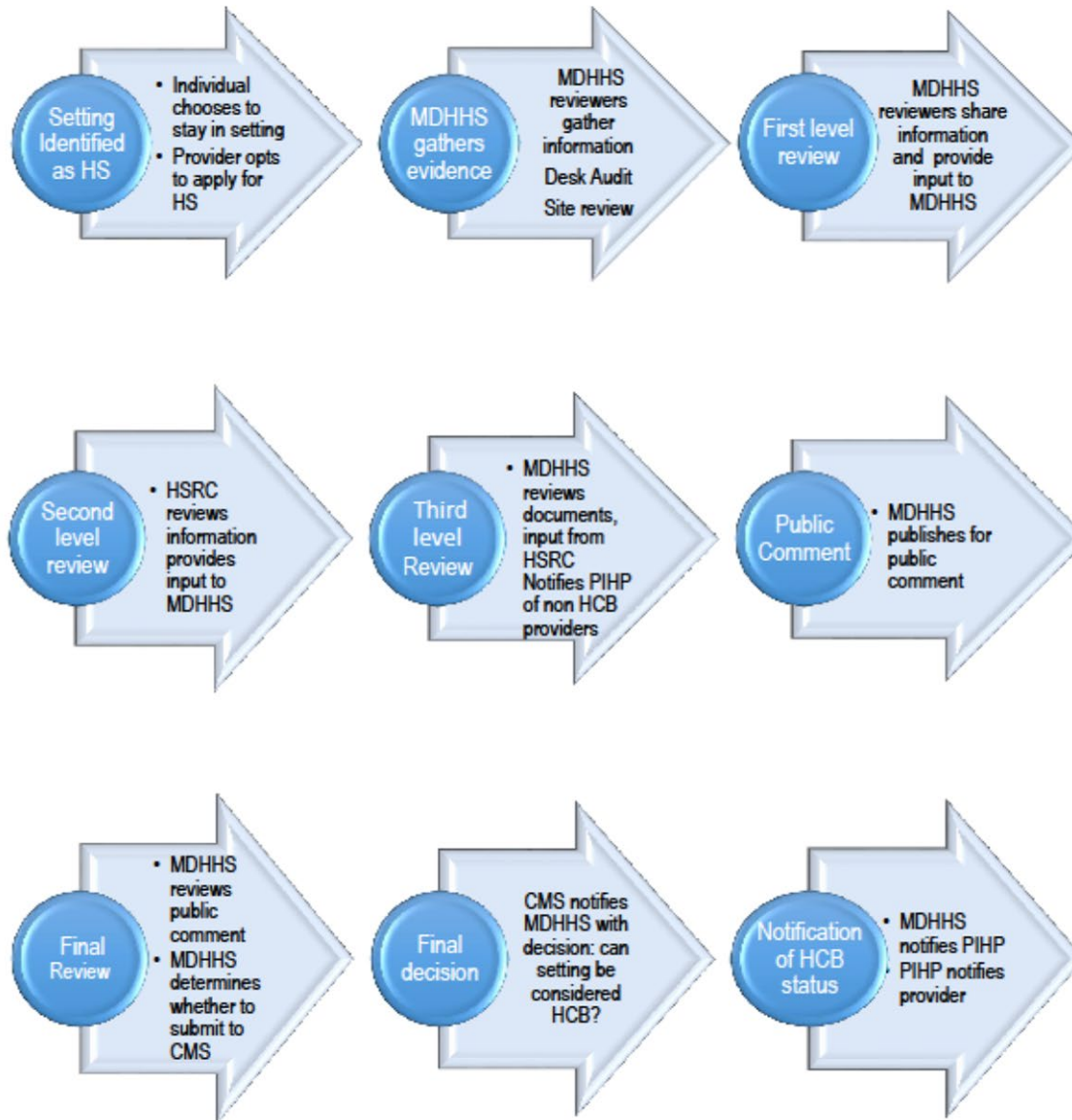
- Recent data distributed to MARO and MALA outlined the number of cases elevating to Heightened Scrutiny.
- HSW: 514 settings, involving 1,133 participants
- B3: 493 settings, involving 1,012 participants

Heightened Scrutiny

▣ Identify Setting

- Gather evidence – desk audit and site review
- THREE levels of review (MSU, HSRC, MDHHS)
- Public comment
- Final review by MDHHS, determines whether or not to submit to CMS
- Final decision by CMS
- Notification of HCB status

MDHHS/BHDDA Heightened Scrutiny Process



COMPLIANCE DEADLINE

- Notification letters for Habilitation Supports Waiver Settings that have elevated to heightened scrutiny contained the following sentence:
- "Providers should continue to provide services/supports to HCBS participants during the Heightened Scrutiny process. All providers are encouraged to work with PIHP/CMHSP to be in full compliance no later than September 17, 2021."

COMPLIANCE DEADLINE

- Certain conditions may affect the ability of MDHHS to complete the compliance work by 3/17/19:
 - The Behavioral Health b{3) services surveys were delayed... Providers of b(3) services will be allotted additional time to comply with the HCBS rule.
 - MDHHS recognizes that heightened scrutiny work will continue beyond March 17, 2019.
 - MDHHS will allow providers the time they need to remediate identified issues as specified in their CAP as long as the provider is making progress and provides regular updates to the waiver agency or PIHP HCBS contact person.

ALIGNMENT WITH E1

- Alignment with Employment First State Leadership Mentoring Program
 - Provider Transformation
 - Capacity Building
 - Rate Restructuring
 - Seamless Transition
- ▣ Employment First – ODEP TA Grant (FY15-19), and \$500,000 appropriation in both FY18 & FY19
- ▣ Opportunities to connect with subject matter expertise

CHALLENGES & OPPORTUNITIES

- CHALLENGES: Lack of clear guidance
- Concern among stakeholders, especially persons served and families
- Inconsistent interpretation
- Inequity in available options for service
- OPPORTUNITIES: Provider Readiness Tools
- Connect with resources developing through Employment First – including Family Outreach
- Work with the PIHP and CMHSP Leads in each region
- The rule mandates inclusion AND choice – but the setting must have the characteristics of compliance also outlined in the rule
- FOCUS ON THE RULE'S SPIRIT AND INTENT

THANK YOU

- QUESTIONS?
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 - ▣ <https://maro.org/public-policy/hcbs/>