

## **Joint Statement by NASDDDS, ANCOR and Disability and Aging Groups Regarding Continuity of Services During Implementation of the HCBS Rule**

In January 2014, the Centers for Medicare & Medicaid Services (CMS) released final regulations regarding the settings of Home and Community-Based Services (HCBS). These rules require HCBS settings to, among other things, provide opportunities for participants to engage in community life, have access to the community, control their personal resources, and seek employment and work in competitive settings. The HCBS settings rule has been a major topic of discussion among providers, families, advocates, people with disabilities and their families.

We have become aware of misunderstandings about the impact and implication of the rule, particularly with regard to the time states are given to comply with the rule and what happens to settings that do not currently meet the rule's requirements. Recently released guidance from CMS explains the rule's timelines and makes clear that funding for settings that do not currently meet the rule's requirements can continue during states' transition period of up to five years.

### **The facts:**

- CMS finalized the rule in January 2014, and it came into effect in March 2014.
- The rule gives states time to "transition" to meet the rule's settings requirements.
- Each state is writing a plan for "transitioning" into compliance with the settings requirements, called a "transition plan." The public must have a chance to comment on the plan. Plans must be submitted to CMS by March 2015.
- Each plan can be up to 5 years in length from the time the rule took effect in March of 2014. Most states that have written draft plans so far expect to reach full compliance by March 2019.
- During the period covered by the transition plan, states can continue to use Medicaid to fund all settings, including those that do not yet meet the rule's requirements.
- States had to comply with the other parts of the rule, including person-centered planning and conflict-free case management, by its effective date of March 2014.

Recently released guidance from the CMS about the HCBS setting rule directly addresses the misconception that people receiving services in HCBS settings that do not meet the new rule's requirements will be left without services on March 17, 2015. The above dates and new CMS guidance should address this misunderstanding. This December 16, 2014 Questions and Answers Regarding Home and Community Based Settings asks, "If a state determines that a current HCB setting is not compliant with the new regulation, does it have to stop providing services in that setting immediately?" CMS unequivocally answers, "No."

This new CMS guidance makes clear that even for settings that are not currently compliant with the rule, “[s]tates can claim for federal matching funds for these services during the transition period.” During the transition period, some providers will be able to bring settings into compliance with the rule, but others will not. Participants who need to transition to new service settings will be given a choice of services in settings that meet the rule and will be carefully transitioned to new services.

We are pleased that CMS has provided clarification to address this confusion, which was causing unnecessary fear for people with disabilities, seniors and their families. Our organizations look forward to working together with CMS, state officials, providers, and HCBS program participants and their families as states begin implementing the new HCBS rules.

To learn more about the rules, see [www.Medicaid.gov](http://www.Medicaid.gov) and [www.HCBSAdvocacy.org](http://www.HCBSAdvocacy.org).

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Association of University Centers on Disabilities  
Autistic Self Advocacy Network  
Bazelon Center for Mental Health Law  
Coalition to Promote Self-Determination  
National Association of Councils on Developmental Disabilities  
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