



Center for Medicaid, CHIP and Survey & Certification

CMCS Informational Bulletin

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FROM: Cindy Mann, Director
Center for Medicaid, CHIP and Survey & Certification (CMCS)

SUBJECT: Release of Home and Community-Based Services Rules

Today, the Centers for Medicare & Medicaid Services (CMS) is releasing two rules that support State efforts to expand access to home and community based services (HCBS) for people with disabilities:

- Final Rule: Community First Choice (CMS-2337-F)
- Notice of Proposed Rulemaking: Home and Community-Based State Plan Benefit (CMS-2249-P2), otherwise known as the “1915(i)” notice of proposed rulemaking.

Community First Choice (CMS-2337-F)

This final rule implements the Community First Choice State plan option, which was authorized by the Affordable Care Act and provides an incentive for States to expand Medicaid coverage for person-centered home and community-based attendant services and supports. States that elect the Community First Choice option are eligible for a 6 percentage point increase in their federal medical assistance percentage. Individuals who require an institutional level of care are eligible for the services, which will be offered in community-based settings.

The Affordable Care Act directs that the Community First Choice benefit may only be available in a “home or community” setting, and this rule does not finalize language regarding the definition for such settings. CMS articulated standards for settings in Community First Choice’s proposed rule, but based on the comments the agency received, CMS decided to revise the standard and seek public comment again. The revised standard is in the 1915(i) proposed regulation that CMS released today (discussed below.)

While the settings requirements are proposed, the Community First Choice option is in full effect, and CMS will rely upon these proposed provisions as we review new State plan amendments to implement the Community First Choice option. To the extent that there are changes when the settings standard is finalized, we are committed to offering States a reasonable transition period (of not less than one year) to make any needed changes to come into compliance with the final rule so as to minimize any disruption to State systems that were established in compliance with the proposed regulations.

The rule is displayed at: <https://www.federalregister.gov/articles/2012/05/07/2012-10294/medicaid-program-community-first-choice-option>

Additional information is available at: http://www.cms.gov/apps/media/fact_sheets.asp

1915(i) Notice of Proposed Rulemaking (CMS-2249-P2)

This notice of proposed rulemaking defines and describes the option available to States under section 1915(i) of the Social Security Act, first authorized in 2005 and enhanced by the Affordable Care Act. This option permits States to offer home and community-based services under the Medicaid State plan without the use of a waiver. As a result, States will have the ability to provide a full array of home and community-based services to individuals who do not qualify for an institutional level of care but have significant services needs, which can include individuals with mental health conditions, Autism Spectrum Disorder, acquired immune deficiency syndrome, or Alzheimer's disease.

The rule also contains other provisions related to home and community based services, including:

- A proposed definition of home and community based settings that will serve as a common definition for services offered through the Community First Choice option and the 1915(i) State plan option.
- A five-year approval or renewal period for demonstration and waivers programs through which a State serves individuals who are dually eligible for Medicare and Medicaid benefits.

This notice of proposed rulemaking is open for public comment for 60 days after publication in the Federal Register. Please refer to the Federal Register for specific instructions about submitting comments.

The rule is displayed at: <https://www.federalregister.gov/articles/2012/05/03/2012-10385/state-plan-home-and-community-based-services-5-year-period-for-waivers-etc-medicaid-program>

Additional information is available at: http://www.cms.gov/apps/media/fact_sheets.asp