



# **Compliance with New 1915(c) Home and Community-Based Medicaid Waiver Regulations**

**Provider self-assessment of settings**

# Changes to federal 1915(c) waiver regulations re: HCB settings



- Emphasis not just on quality services, but on *quality of life* for recipients of waiver services;
- CMS-defined “home and community-based settings in which services may be provided;”
- Added protections for recipients in provider-controlled or operated residential settings

# Changes to federal 1915(c) waiver regulations re: HCB settings



## Home and Community-Based Settings

- Requires the state to verify that all recipients of Medicaid home and community-based waiver services receive those services
  - in integrated community settings,
  - selected by the recipient from among setting options, including non-disability specific settings,
  - appropriate to their needs, and
  - that those settings provide “full access” to the benefits of community living.

# Home and Community-Based Settings



The federal Center for Medicare and Medicaid (CMS) has clarified that “full access to the benefits of community living” means:

***“the same degree of access as individuals not receiving home and community-based services, including opportunities to:***

- ***seek employment and work in competitive, integrated settings;***
- ***engage in community life;***
- ***control personal resources;***
- ***receive services in the community”***



# Home and Community-Based Settings

## CMS-defined qualities of a “home and community-based setting:

- Physically accessible;
- Choice of roommates;
- Freedom to furnish and decorate;
- Freedom and support to control schedules and activities;
- Access to food (snacks) at any time;
- Visitors at any time

# Home and Community-Based Settings



- **In a provider-owned or controlled residential setting the following *additional* conditions must be met:**
  - Must be rented or occupied under a “legally enforceable” agreement such as a lease or rental agreement;
  - Have the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the state;
  - Privacy in sleeping or living unit;
  - Entrance doors lockable by the individual with only appropriate staff having keys to doors.



# Steps to State Compliance

- **Assess the extent to which current State statute, regulation, and policy ensure compliance with CMS regulations**
  - SDS has completed a review of state regulations governing waivers, ALH, foster homes;
  - Identified initial changes SDS must make to be in step with federal requirements;
  - Changes will be made in future regulation project;
  - New or amended requirements will be added to ongoing monitoring and oversight activities



# Steps to State Compliance

- **Identify providers that may have deficiencies in settings where home and community-based services are provided**
  - Providers identified by SDS Provider Compliance and Certification Unit;
  - Consultation and site visits made;
  - Collaborative analysis of setting issues;
  - Technical assistance provided



# Steps to State Compliance

- **Verify that recipients are receiving waiver services in home and community-based settings**
  - *Provider Self-Assessment of Settings Survey*
  - Targeted interviews
  - Site visits
  - Plan of Correction
  - Ongoing monitoring