HCBS Rules April 2023 Communication

On March 17, 2023, the Centers for Medicare and Medicaid Services (CMS) remarked on the compliance milestone for the HCBS Settings Rules (HCBS Rules) intended to afford members access to the full benefits of community living. More than seven years ago AHCCCS began working with a wide range of stakeholders representing the long-term care community to assess the State's compliance with the HCBS Rules and identify further opportunities to enhance member integration experience and outcomes by building off of Arizona's long-standing history of the provision of home and community based services. AHCCCS submitted Arizona's Systemic Assessment and Transition Plan to CMS in October 2015. Subsequently, a number of iterations of the Transition Plan have been updated and informed by stakeholder input with AHCCCS receiving final approval of the Arizona Transition Plan on January 20, 2023.

While progress has been made, it is imperative that we remain conscientious to serve our members in applying the guiding principles of the ALTCS program including, but not limited to, member-centered case management practices, person-centered planning that safeguards against unjustified restrictions, and collaboration with stakeholders. It is equally important that we continue to monitor for HCBS Rules compliance and work together to make sure that members experience the changes brought about by the HCBS Rules in their day-to-day lives. Consistent with the approach that we have undertaken over the past seven years to assess the State's compliance and develop and implement a Transition Plan to come into compliance, there is a role for each stakeholder in the ongoing monitoring process. This communication will outline steps that CMS, AHCCCS, and other stakeholders can take to monitor compliance systemically, at the provider level, and also at the individual member level.

Centers for Medicare and Medicaid Services (CMS) Monitoring

In January 2023, CMS' approval of the Transition Plan solely addressed the State's compliance with applicable Medicaid authorities and the State's process for assessing setting compliance, including settings that meet the criteria for Heightened Scrutiny. CMS' review of settings submitted for Heightened Scrutiny and subsequent determinations are separate and distinct from final approval of the Transition Plan. If States want to preserve settings that are presumed institutional in nature and the State asserts the setting complies with the HCBS Rules, the States must submit evidence to CMS to make a final determination. CMS determines whether the evidence supports that the setting is or can become compliant with the HCBS Rules. Given the March 17, 2023, deadline has passed and CMS has not yet requested evidentiary documentation packages for a sampling of settings meeting Heightened Scrutiny, a Corrective Action Plan (CAP) is warranted to afford CMS more time to review the state's assessment documentation and either affirm the State's findings or require remediation for identified settings. The CAP allows for a 12-month remediation period should CMS have any findings when they complete their review. Links to AHCCCS' CAP proposal and CMS' response are provided immediately below.

AHCCCS CAP Proposal
CMS CAP

MCO Oversight of Providers

The HCBS Rules Assessment Tool Suite has been formally incorporated into the ongoing quality monitoring process and tools required by the Managed Care Organizations (MCOs) for HCBS settings. The HCBS Assessment tool suite will remain the standard of compliance for HCBS settings moving forward. It is also important to note that MCOs will be required to assess HCBS Rules compliance during the initial credentialing

process to ensure new providers coming into the network are compliant prior to the onset of service delivery. When combined, the assessment tool suite includes the following:

Provider Self-Assessment – The purpose of this assessment is to gather information directly from the provider on the extent to which the provider may or may not be currently applying practices consistent with the HCBS Rules. It is important to note, the provider self-assessment includes both the documented self-assessment from the provider perspective and documentation of the Managed Care Organizations' (MCOs) validations of the provider's self-assessment after a joint review of the self-assessment with the provider and the MCOs' completion of the additional tools in the Assessment Tool Suite.

Observations and Community Interviews – The purpose of these interviews is to validate the Provider Self-Assessment by observing the location, environment, and community engagement of the provider to identify characteristics that may or not be consistent with the HCBS Rules and to gather information directly from community members, who have an association with the provider, about the provider's level of interaction with members receiving services and strategies the provider employs to maximize community engagement.

Person Centered Service Plan Review – The purpose of this review is to evaluate member case files for fidelity to the person-centered plan.

Member Surveys - The purpose of these surveys is to validate the Provider Self-Assessment by gathering information directly from the members (or their representatives) regarding the member experience with the provider, which may or may not be consistent with the HCBS Rules.

AHCCCS Oversight of the Managed Care Organizations

AHCCCS has also instituted HCBS Rule standards into the Operational Review audit tool for the MCOs beginning with the review cycle currently underway. AHCCCS will be monitoring the MCOs' compliance with the quality monitoring process and tools.

Opportunities for Stakeholders to Share Information with AHCCCS

AHCCCS asks community members to play an integral role in ongoing monitoring of compliance. Anyone can report a concern about a specific setting's ability to comply with the HCBS Rules. Submit concerns on the Report Concerns About the Quality of Care Received web page. The information will be used to inform the health plans' assessment of the setting's compliance with the HCBS Rules.