

The Federal Settings Rule

The Impact on Sheltered Workshops and Facility-Based Day Services

What is the HCBS Settings Rule?

In January 2014, the Centers for Medicare and Medicaid Services (CMS) issued a final rule outlining requirements for both residential and non-residential settings that are reimbursed by Medicaid. This rule impacts the services provided in DIDD's three home and community-based waivers, which is how the state provides services and support to 8,000 people with intellectual disabilities. The rule requires that those services, including day services, are integrated and support full access to the greater community, including opportunities to seek employment, work in integrated settings and earn a competitive wage. All states must comply with the new rule. While states will be given time to come into compliance, after a reasonable period, Medicaid funding can no longer be used to pay for services delivered in settings that do not comply.

How will this affect the Sheltered Workshop or Facility I attend?

Sheltered workshops and facility-based day programs are designed specifically for people with disabilities and for this reason, don't currently comply with the new settings rules. Except for paid staff, people receiving services in these settings usually have limited, if any, interaction with people who do not have disabilities or the broader community during the hours this service is provided. This means changes will be required for facility-based programs in order to continue to receive Medicaid funding.

Will my DIDD provider have to close its facility-based day program?

The new rule does not require that facility-based day programs close; it just dictates where services that are reimbursed by Medicaid can be provided. Under the new rule, Medicaid funding may be provided to pay for facility-based day services for specific purposes:

- On a time-limited basis to provide job training to help a person prepare for community employment
- To focus on developing specific skills to support a person in achieving employment and/or community living goals

It's important to note even in those situations, there is an expectation that people receiving facility-based day services are supported to be engaged in the broader community

What changes will have to be made in order for the center to stay open?

Each provider has the opportunity to decide how best to transition their programs into compliance with the new federal rule. Many agencies have engaged the people they support, local advocacy groups and families in developing a transition plan. Providers may choose to find ways to open their facilities to the broader community so that people have opportunities to spend time with people who do not have disabilities. They may also find ways to ensure that people participating in facility-based programs for some portion of their day or week also have opportunities to engage in work or non-work activities in community settings.

My loved one can't or doesn't want to work. What will happen for them?

The new rules do not require that every person work. They do require, however, that services are provided in settings that ensure every person of working age has opportunities and support as needed to work in an integrated setting at a competitive wage. For persons who choose not to work, people receiving facility-based services must be supported to be engaged in the broader community.