1915(k) Community First Choice Overview
Today’s Objectives

1. Brief overview of Community First Choice (CFC) Program & Key Features
   – Other materials available:

2. Practical Tips
   – Coordination with Delivery of Long Term Services
   – Coordination with Implementation of Home and Community-Based Services (HCBS) Regulations
1915(k) The Community First Choice Option
Enabling Legislation & Regulations

- Section 2401 of the Affordable Care Act added a new section 1915(k) to the Social Security Act which establishes a new **State plan option** to provide “person-centered” home and community-based attendant services and supports.

- The CFC final rule was issued May 7, 2012. (This did **not** finalize the settings requirements of 441.530)
  [https://www.federalregister.gov/articles/2012/05/07/2012-10294/medicaid-program-community-first-choice-option](https://www.federalregister.gov/articles/2012/05/07/2012-10294/medicaid-program-community-first-choice-option)

- The HCBS final rule which finalized the home and community based setting requirements for 1915(c), 1915(i) and 1915(k)-CFC was issued January 16, 2014, effective date is March 17, 2014
1915(k) Community First Choice: Program Overview

• Purpose is to provide attendant care services and other community supports to Medicaid eligible individuals who have an institutional level of care

• CFC services are provided to individuals in their homes and communities

• CFC services are provided in a manner that highlights consumer direction, person-centered planning, and flexible service delivery options

• CFC services must be provided in settings that are home and community-based in nature
1915(k) Community First Choice: Key Features

- CFC is a State plan option, not a waiver
- CFC programs must be provided in a manner that is consistent with all State plan requirements, including Freedom of Choice and Comparability, and be provided on a Statewide basis
- The state cannot cap the number of individuals served and cannot target to certain populations, disabilities, or parts of the state
- States receive a 6 percentage point increase in FMAP for the provision of CFC services
1915(k) Community First Choice: Eligibility

- Must be eligible for medical assistance under the State plan
  - CFC does not create an independent eligibility path
- Must meet an institutional level of care that would be furnished in:
  - A hospital providing long term care services;
  - A nursing facility;
  - An intermediate care facility for individuals with intellectual disabilities;
  - An institution providing psychiatric services for individuals under age 21;
    or
  - An institution for mental disease for individuals age 65 and over, if the cost could be reimbursed under the State plan
- Must be part of an eligibility group that is entitled to receive nursing facility services; if not, income may not exceed 150% of FPL
- Enrollment is voluntary
All CFC benefits **must** include these services:

- Assistance with Activities of Daily Living (ADLs), Instrumental Activities of Daily Living (IADLs), and health-related tasks through hands-on assistance, supervision, and/or cueing

- Acquisition, maintenance, and enhancement of skills necessary for the individual to accomplish ADLs, IADLs, and health-related tasks

- Back-up systems (such as electronic devices) or mechanisms to ensure continuity of services and supports

- Voluntary training to individuals on how to select, manage and dismiss attendants
• Activities of Daily Living: Basic personal everyday activities including, but not limited to tasks like eating, grooming, personal hygiene and toileting, bathing, and transferring.

• Instrumental Activities of Daily Living include activities related to living independently in the community, including but not limited to meal planning and preparation, managing finances, shopping for essential items like food and clothing, performing household chores, communicating with others, and participating in the community.
In addition to required services, States **have the option** to provide permissible services and supports that are linked to an assessed need or goal in the individual’s person-centered service plan.

Permissible services and supports may include the following:

- Funding for transition costs such as security deposits for an apartment or utilities, purchasing bedding, basic kitchen supplies, and other necessities required for transition from an institution

- Expenditures relating to a need identified in an individual’s person-centered plan that increases his/her independence or substitutes for human assistance to the extent the expenditures would otherwise be made for the human assistance
• Room and board
• Special education and related services provided under IDEA and vocational rehab
• Assistive technology devices and assistive technology services (other than those defined in 441.520(a)(3))*
• Medical supplies and equipment *
• Home modifications*

* These services may be provided if they meet the requirements of the permissible services described in the last slide and at 441.520(b)(2)
1915(k) Community First Choice: Consumer-Directed Service Delivery Models

• Agency-provider model

• Self-directed model with a service budget

• Other service delivery model approved by the Secretary
1915(k) Community First Choice: Agency Provider Model

- Agency either provides or arranges for services
- Individual has a significant role in selection and dismissal of employees, for the delivery of their care, and the services and supports identified in the person-centered service plan
- State establishes provider qualifications
1915(k) Community First Choice: Self-directed Model with Service Budget

- Provides individuals with the maximum level of consumer control

- Affords the person the authority to:
  - Recruit and hire or select attendant care providers
  - Dismiss providers
  - Supervise providers including assigning duties, managing schedules, training, evaluation, determining wages and authorizing payment

- Must include Financial Management Activities
  - Must make available for those who want it, and must provide this if individuals cannot manage the cash option without assistance

- At the state’s discretion, may disburse cash or use vouchers
1915(k) Community First Choice: Service Planning Process

Assessment of Functional Need

Person-Centered Planning Process

Person-Centered Service Plan
1915(k) Community First Choice: Developing a CFC Program

• We strongly encourage states to engage in technical assistance as early as possible

• Think about the existing system of delivery of long term supports and services in the state and what the state hopes to achieve with CFC implementation

• Coordination with State plan and other long term services and supports authorities, including your Statewide Transition Plan, is critical

• Stakeholder engagement is a requirement

• CMS is available to review concept papers or draft SPAs while engaging in technical assistance
1915(k) Community First Choice: Home and Community-Based Settings Requirements

- Home and Community-Based Settings regulations for CFC are found at 42 CFR 441.530

- The setting requirements for 1915(k) state plan amendments are THE SAME as 1915(c) waivers and 1915(i) state plan amendments

- All settings in which CFC services may be provided must be determined to be compliant with home and community-based setting requirements before CMS approves the CFC Program and before the state may implement the program

- Transition plans are not permitted to meet the settings requirements in 1915(k)
• Settings must have at least the following qualities for CFC services to be permissible:
  – Is integrated in and supports full access of individuals to the greater community
  – Is selected by the individual from among setting options, including non-disability specific options
  – Ensures an individual’s right of privacy, dignity and respect, and freedom from coercion and restraint
  – Optimizes but does not regiment individual initiative, autonomy, and independence in making life choices
  – Facilitates individual choice regarding services and supports, & who provides them
  – Has such other qualities as the Secretary determines to be appropriate, based on the needs of the person as indicated in their person centered plan
1915(k) Community First Choice (CFC): Provider Owned or Controlled Residential Settings Requirements at 441.530

- The unit/dwelling is a specific physical place that can be owned, rented or occupied under a legally enforceable agreement by the individual receiving services AND the person has at least the same responsibilities and protections that tenants have under landlord/tenant law.

- Each individual has privacy in their sleeping/living unit:
  - Lockable doors
  - Choice of roommates
  - Freedom to furnish/decorate (w/in lease or other agreement)
  - Individuals may have visitors of their choosing at any time
  - The setting is physically accessible to the individual (no modification of this requirement is permissible)
Potential modifications (other than those permitted under state landlord/tenant laws) must:

- Be supported by a **specific individualized assessed need** and **justified in the individual’s person-centered plan** (PCP)
- **Document the positive interventions and supports** used **prior** to any modification to the PCP
- Include a **clear description of the condition** that is **directly proportionate** to the specific assessed need
- Include regular collection and review of the data to measure effectiveness
- Include established time limits for periodic review to determine if modification is still necessary
- Include informed consent of the individual
- Include an assurance that interventions and supports will cause no harm to the individual
1915(k) Community First Choice: Home and Community-Based Settings

Exclude

- A nursing facility, an IMD, an ICF-IID, a hospital providing LTC services, or

- Any other locations that have qualities of an institutional setting, as determined by the Secretary

- CFC services may not be provided in these settings
1915(k) Community First Choice: Settings that May be Considered for Heightened Scrutiny

Heightened Scrutiny is required for any setting that:

– Is located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment;
– Is located on the grounds of, or immediately adjacent to, a public institution; or
– Has the effect of isolating individuals receiving Medicaid Home and Community-Based Services from the broader community.

If the setting falls into any of these categories, it is presumed to be institutional unless the state requests heightened scrutiny, provides information detailing why it should be considered a home and community-based setting, and the Secretary makes a final determination that it should be considered so.
• For settings that have already been determined to require heightened scrutiny, a state or other parties may present information that the setting does not have the qualities of an institution and has the qualities of a home and community-based setting requirements

• The Secretary will review the information presented and make a determination whether the setting has the qualities of a home and community-based setting and does NOT have the qualities of an institution
1915(k) Community First Choice: Things to Think About – Settings

- Options for the state to consider
  - Begin with services only in a person’s own home
  - Begin with services in a person’s own home and with compliant settings, and transition other settings as they become compliant through the 1915(c) transition plan process, if applicable
  - Begin with services in all settings, but only after all services are full compliance with the home and community-based settings requirements is achieved, including any final determinations required by the heightened scrutiny process
These are new requirements. If CFC is permitted in settings other than a person’s own home, states should expect to do a full review of their state regulations and policies

– Even if no regulatory changes are required, states are expected to issue guidance as to what is expected of providers, and what enrollees should expect in terms of Home and Community-Based setting options and requirements

– Compliance requires more than saying there are no barriers. Compliance requires settings that are integrated and support full access of individuals to opportunities within the greater community
Public comments generated from Statewide Transition Plans for settings under consideration for CFC

- Comments may include concerns regarding the isolation of individuals in a setting
- If so, the state should attempt to determine if the allegation is regarding a specific location or provider or regarding all settings of a certain provider type
- Depending on the findings, the state should investigate either the individual setting identified, or the broader provider type.
- After investigation, the state must respond adequately and appropriately to the comments
• States should also complete provider assessments in order to determine compliance with the regulation

• States’ CFC Quality Improvement System must include a description of the state’s comprehensive process and content for ongoing monitoring of compliance with the home and community-based setting requirements, including systemic oversight and individual outcomes

• Guidance is provided in Home and Community-Based Services Toolkit http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Long-Term-Services-and-Supports/Home-and-Community-Based-Services/Home-and-Community-Based-Services.html
1915(k) Community First Choice: Things to Think About – Outreach, Training and Education

- Consider the need for outreach, training, and education throughout the process:
  - During design and implementation
  - Consider timing for training and build into timelines for program development and delivery
  - Training may be required regarding eligibility, services available, delivery options, provider enrollment, provider qualifications, settings requirements, reporting requirements, budget and financing, complaint process, appeals, etc.
  - Critical area for training: new state policies and procedures
  - Consider all stakeholders in all pieces of the process - including training for sister state agencies involved in implementation or oversight
1915(k) Community First Choice: States with currently approved CFC programs

California
Oregon
Maryland
Montana
Washington
Texas
Connecticut
Questions?

For more information:

- Regional Office Representative

  or

- SOTA Co-Leads

  or

- Kenya Cantwell
  Division of Benefits and Coverage
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