



Home and Community-Based Services Access Rule Toolkit

On April 27th, the Centers for Medicare & Medicaid Services (CMS) published a proposed rule, *Ensuring Access to Medicaid Services (Access Rule)* to improve access to, and quality of, Medicaid services. The proposed Access Rule makes significant improvements and strengthens many aspects of Medicaid HCBS, including the direct care workforce, health and safety protections, quality of services, and state accountability and transparency, by introducing new requirements in each of these areas.

The proposed rule applies to all Medicaid services, including home and community-based services (HCBS) that are vital to people with developmental disabilities, including Autism. This means that input from people with disabilities is critical. **Comments must be received by July 3rd, 2023.** This toolkit will help you understand the Access Rule and how to make comments.

People with disabilities rely on the Medicaid program to meet a wide range of needs, including health care, mental health services, and supports to live in the community (known as HCBS). Each state designs its own Medicaid program, but the federal government sets standards and requirements, reviews and approves each state's program design, and ensures that federal requirements are followed.

The proposed Access Rule establishes standards to ensure that services provided through the Medicaid program are available and meet the needs of people who rely on them. CMS published a series of fact sheets highlighting all of the major parts of the proposed rule.

Note: The Access Rule is different from the HCBS Settings Rule published in 2014. That Rule is about civil rights and person-centered planning. It includes the ability to choose when you go to sleep, what you eat, and who you live with. The HCBS Settings Rule does not address all issues related to HCBS, including access to services, requirements for systems related to health and safety, or oversight.

What's most important for people with disabilities to know?

The Rule is long and complex but here's what's most important to know.

Under the proposed Access Rule:

Growing the Direct Care Workforce and Transparency in Payment Rates

- At least 80 percent of all Medicaid payments for specific HCBS — homemaker services, home health aide services, and personal care services — must be spent on compensation for direct care workers to help address the direct care workforce crisis.
- Require states to publish average hourly payment rates for certain providers of HCBS every two years
- Require states to establish an advisory group to advise and consult on fee-for-service rates paid for personal care, home health aide, and homemaker services

Better Oversight and Monitoring HCBS Waitlists

- States must report information on their section 1915(c) HCBS waiver waitlists, including the length of the waitlists. They also must report whether people can access services across HCBS authorities once the services are approved. This data allows a comparison of HCBS accessibility in different states.

Strengthen Person-Centered Service Planning and Incident Management Systems

- States must demonstrate that as part of person-centered planning, a reassessment of need is completed at least once a year for people continuously enrolled in HCBS programs. They also must demonstrate that service plans are reviewed and revised annually based on that reassessment.
- States must operate and maintain an electronic incident management system and investigate, address, and report on the outcomes of the incidents within specified timeframes.
- States must establish and manage a grievance process for people receiving HCBS in fee-for-service plans. (This already exists in Medicaid-managed care.) This system will give people a way to notify their state Medicaid agency if they have a complaint about how a provider or state is complying with Medicaid requirements.

Establish New Oversight, Monitoring, Quality Assurance, and Quality Improvement for HCBS Programs

- States must report on a set of nationally standardized quality measures specifically for HCBS established by CMS.

Draft Comments

The Autism Society and the National Association of Developmental Disabilities Councils have come together to provide [joint comments](#) and to provide this toolkit to help individuals with disabilities, family members, professionals, and other allies make comments.



How to Submit Your Comments

It is important for the people who rely on HCBS, and their families and advocates, to make their voices heard in this rule-making process. CMS wants to hear comments from people who directly experience obstacles to accessing services and who struggle to get their needs met and how the HCBS program can be improved for everyone.

You can easily submit a comment through the Autism Society's [Action Alert](#). The message body will be the official comment that is submitted to CMS. Feel free to follow the guidelines to customize and add your personal stories. Comments must be submitted by July 3rd, 2023.