

Community Participation Support and Day Habilitation Implementation Updates

ODP Announcement 19-090

AUDIENCE:

Individuals and Families, Administrative Entities (AEs), Supports Coordination Organizations (SCOs), Supports Coordinators (SCs), Providers of Community Participation Support in the Consolidated, Community Living or Person/Family Directed Support (P/FDS) Waiver, Providers of Day Habilitation in the Adult Autism Waiver (AAW) and All Other Interested Parties

PURPOSE:

To provide continued guidance, including a timeline for transitional activities, regarding the July 1, 2019 requirement in the Community Participation Support and Day Habilitation service definitions that each individual be offered opportunities to spend time in community locations consistent with her or her preferences, choices and interests.

BACKGROUND:

The Community Participation Support service definition was developed, and the Day Habilitation service definition in the AAW was revised, to promote increased community participation in alignment with the Office of Developmental Programs' (ODP) *Everyday Lives* recommendations. "Being involved in community life creates opportunities for new experiences and interests, the potential to develop friendships, and the ability to make a contribution to the community. An interdependent life, where people with and without disabilities are connected, enriches all of our lives."

Offering individuals opportunities to spend time in the community aligns with the Home and Community Based Settings Rule established by the Centers for Medicare and

Medicaid Services (CMS) effective March 17, 2014. The Settings Rule establishes requirements for the qualities of settings where individuals receive reimbursable services through the waivers. The intent is that individuals receive Community Participation Support and Day Habilitation services in integrated settings that support full access to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving waiver services.

Further, CMS released guidance on March 22, 2019 stating that “promoting community integration for older adults and people with disabilities remains a high priority to CMS.” The guidance states that CMS will take the following three factors into account to determine whether a setting may have the effect of isolating individuals from the broader community:

1. Due to the design or model of service provision in the setting, individuals have limited, if any, opportunities for interaction in and with the broader community, including with individuals not receiving Medicaid-funded Home and Community-Based Services;
2. The setting restricts beneficiary choice to receive services or to engage in activities outside of the setting; or
3. The setting is physically located separate and apart from the broader community and does not facilitate beneficiary opportunity to access the broader community and participate in community services, consistent with a beneficiary’s person-centered service plan.

DISCUSSION:

To ensure that people receiving Community Participation Support or Day Habilitation services have increased opportunities for community participation (and supports compliance with CMS requirements), ODP worked with stakeholders to develop the following measurable requirements in the service definitions adopted in 2017:

- **Beginning July 1, 2019, a participant may not receive Community Participation Support/Day Habilitation services in a licensed Adult Training Facility or a**

licensed Vocational Facility¹ for more than 75 percent of his or her support time, on average, per month.

- **The provider must provide each participant opportunities to spend time in the community that are consistent with each participant's preferences, choices, and interests.**

Individual Support Plan Team and Administrative Entity Actions

Individual Support Plan (ISP) teams and Administrative Entities have roles in encouraging community participation. The ISP team for each individual will develop outcomes and priorities for individuals for community integration activities based upon the strengths and preferences of the individual. ISP teams are required to discuss the benefits of the Community Participation Support or Day Habilitation service and spending time in the community at each Annual ISP meeting. The ISP team should always consider the individual's choice, preferences and control in writing an ISP with the idea of ensuring the individual is working toward his or her goals. Through individual monitoring, the Supports Coordinator will look for the connection between the person's interests, preferences, and desired outcomes and the activities in which the individual is supported.

Additionally, ODP encourages the use of multiple procedure codes and changes to ISPs as necessary to address flexibility in where the individual receives Community Participation Support services that reflect his or her choices, control and community inclusion. Supports Coordinators should be prepared to include multiple procedure codes and Administrative Entities should authorize these codes on ISPs. Specific instructions on how to utilize multiple authorization codes can be found in the ISP Manual.

When the ISP team determines that an individual cannot or chooses not to engage in community activities at least 25 percent of his or her support time on average per month, a variance form (DP 1086) must be completed, per Bulletin 00-18-06 or its successor. A variance can be granted for up to one year. A summary of the conclusion and future efforts to offer opportunities for community experience as appropriate for the individual will also be included in the ISP.

¹ Services cannot be provided in licensed Vocational Facilities in the Adult Autism Waiver.

Individuals who have been granted or are seeking a variance to spend their facility time working in a licensed vocational facility should be offered the opportunity to pursue competitive integrated employment and/or be presented with information about ODP's waiver employment services. All individuals receiving prevocational services must have a competitive integrated employment outcome included in their ISP. There must be documentation in the ISP regarding how and when the provision of prevocational services is expected to lead to competitive integrated employment.

Vocational facilities can promote increased community activities for individuals receiving prevocational services by developing relationships with multiple employers in the community where individuals receiving prevocational services can perform job shadowing activities, be mentored, talk with the employer about the skills needed to perform jobs for that company and/or practice interview skills.

Requirements for Community Participation Support: Offering Time in Community Settings

In order to meet the requirements outlined in the waivers, each service location that renders Community Participation Support services must comply with the following:

- Offer opportunities and needed support to each individual receiving services to participate in community activities that are consistent with the individual's preferences, choices and interests. The service location is responsible for offering these opportunities in a language and means of communication (verbal, written, picture board, etc.) that is understood by each individual. Opportunities must be offered on an ongoing and regular basis as each individual's preferences, choices and interests may change based upon their experiences participating in activities or hearing about the experiences of their friends. This requirement applies to services provided in any setting (licensed Adult Training Facility, licensed Vocational Facility, licensed Older Adult Daily Living Center, community locations and community hubs).
- Complete a variance form as part of ISP team discussions for each individual who spends more than 75 percent of his or her support time in a licensed Adult Training Facility and/or licensed Vocational Facility. A variance may be granted by the ISP team when one of the following conditions apply:

- The individual receives fewer than 12 hours (48 units) per week of Community Participation Support services from the provider.
- The individual has current medical needs that limit the amount of time he or she can safely spend in the community.
- The individual has an injury, illness, behaviors or change in mental health status that result in a risk to him or herself or others.
- The individual declines the option to spend time in the community having been provided with opportunities to do so consistent with his or her preferences, choices and interests.

The completion of a variance includes discussion by the ISP team about how opportunities consistent with each individual's preferences, choices and interests will be offered on an ongoing and regular basis.

These requirements ensure that all service locations provide person-centered services and meet the federal regulatory requirement that every setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.

To be compliant with the requirement for community participation, providers must have conversations with each individual they serve about the individual's skills, interests and desires. These conversations must inform the activities each provider offers in the community so that the activities are consistent with each individual's preferences, choices and interests. The conversations must occur on an ongoing and regular basis as each individual's preferences, choices and interests may change based upon their experiences participating in activities or hearing about the experiences of their friends. Some helpful tools to foster conversations and think about community activities include:

- Life Course Tools, which have excellent questions to encourage conversations about employment and community activity goals. These tools are available at <https://www.lifecoursetools.com/>.
- Life Course webinar recordings and materials at <https://www.myodp.org/course/view.php?id=1173>.

- Community Participation Support Training at <https://www.myodp.org/course/index.php?categoryid=399>.
- Ideas and resources for increasing opportunities for older adults to be engaged in their communities are available at <https://www.engagingolderadults.org/>.
- FAQs concerning Medicaid Beneficiaries in Home and Community-Based Settings who Exhibit Unsafe Wandering or Exit-Seeking Behavior at <https://www.medicaid.gov/federal-policy-guidance/downloads/faq121516.pdf>.
- ASERT Support Professional Resources at <http://www.paautism.org/resources/All-Resources/All-Resources-Details/itemid/8964/-Support-Professional-Resources>.

Technical Assistance

ODP's regional Community Participation Support leads are available for providing technical assistance to providers.

ODP is also securing contractors to provide additional technical assistance, both at the programmatic level for strategies and skill building related to supporting people in community and preparing individuals for competitive integrated employment, and at the organizational level (similar to the "Bootcamps" help in 2016 and 2017). ODP will be announcing the availability of that technical assistance in the near future.

Transition Plan for Providers

Providers that are not in compliance with the requirements on July 1, 2019 above will be required to develop a Transition Plan for each service location by September 30, 2019. The Transition Plan must identify the following:

- Any activities/processes the service location has implemented to date to achieve compliance, including dates when each activity/process was implemented;
- A description of barriers to reaching the 25 percent community requirement and how the provider will address each barrier; and
- The plan including activities, responsible persons and timelines to reach compliance. The activities and timelines should include periodic milestones that ensure each service location achieves compliance no later than March 2021.

Since the requirements are specific to each individual receiving services, providers are responsible for determining whether a Transition Plan must be developed for a service location. Providers can request technical assistance at any time from the regional ODP Community Participation Support leads.

Providers are not required to submit Transition Plans to the Administrative Entity or ODP at this time but should maintain documentation on site. In the spring of 2020, ODP will review the Transition Plans and assess whether service locations are compliant with the requirements contained in this communication, including whether sufficient progress has been made with Transition Plans.

Corrective Action Plan (CAP)

Providers will be required to develop a CAP if the ODP assessment finds any of the following:

- A service location is not compliant with the requirements and a Transition Plan was not completed.
- A Transition Plan was completed, but sufficient progress has not been made.

The CAP must be submitted to the lead Administrative Entity responsible for performing Quality Assessment and Improvement activities within 30 calendar days of receiving the findings from ODP above. ODP and Administrative Entities will continue to monitor compliance/progress through December 2020.

Directed Corrective Action Plan (DCAP)

If compliance is not achieved at any service location by January 1, 2021, ODP will issue a DCAP no later than January 31, 2021.

Transition of Individuals

If compliance is not achieved at any service location by March 31, 2021, Administrative Entities and ODP will work with the provider, individuals served in that location, and their ISP teams to transition them to settings that are compliant with the requirements. All individuals must be transferred no later than March 31, 2022.

Ongoing Compliance

Ongoing review and monitoring of compliance with the requirements will be assessed through the Quality Assessment and Improvement process. Questions regarding Community Participation Support will be added to the Quality Assessment and Improvement tools in Year 1 of Cycle 2 (beginning in June 2020). In addition, ODP will publish reports in the fall of 2019 showing average community participation percentages per service location based on provider billing.

Heightened Scrutiny

The timelines and transition plan, CAP and DCAP processes outlined in this document do not apply to service locations that are identified in the federal regulations as being locations that are not home and community-based settings or are settings that are presumed to have the qualities of an institution:

- A nursing facility;
- An institution for mental diseases;
- An intermediate care facility for individuals with intellectual disabilities;
- A hospital;
- Any setting that is located in a building that is also a publicly or privately-operated facility that provides inpatient institutional treatment; or
- Any setting that is located in a building on the grounds of, or immediately adjacent to, a public institution.

ODP is developing the process that will be used to assess whether these service locations overcome the institutional presumption and meet the requirements of a home and community-based setting. The assessment will be completed in Fiscal Year 2019-2020. Service locations that are determined to meet the requirements of a home and community-based setting will be published for public comment and submitted to CMS by October 2020. More information about this process will be released in a future communication.

ATTACHMENTS:

Attachment 1 – Timeline for Community Participation Support Requirements

Attachment 2 - Statewide Community Participation Support Paid Units in Community Settings from July 2017 through December 2018.

Attachment 3 – ODP Community Participation Support Leads

CONTACT:

Any questions should be sent to the appropriate ODP Community Participation Support lead contained in Attachment 3.