



of Wisconsin Disability Organizations

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What do changes in the Home and Community Based Settings rule mean for me?

Q. What is the Home and Community Based Settings rule?

The federal government is raising expectations for how people with disabilities live and work in their communities. The new Home and Community Based Settings (HCBS) rule says federal Medicaid dollars for long-term care should support people with disabilities to live, work, and make choices about their lives just like people without disabilities.

The HCBS rule seeks to ensure that residential, employment, and day services be “integrated” into the community, meaning that they must offer real opportunities for interaction with peers who are not receiving Home and Community Based Services and be delivered in settings that do not have institutional qualities or qualities that isolate people with disabilities from the greater community. To be eligible to receive HCBS Medicaid funds for services, a setting must support full access of people with disabilities receiving HCBS funded services “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.”

The Center for Medicaid Services (CMS) has put together a helpful [overview of the major points](#) of the rule.

Q. Will people with disabilities lose supports because of the federal rule change?

That is not the intent of the federal change. The intent of the federal rule change is to provide people with disabilities the full range of opportunities that people without disabilities can access. All providers of long-term supports— residential, employment, and day services—will have the opportunity to change and expand the supports they offer to meet federal expectations for more community-based options. In some cases services may change in order to meet the requirements of the rule—but those changes should result in better, more individualized services.

Important aspects of the rule change:

- The rule does not eliminate any service types currently offered

- The rule does not reduce funding for service plans
- People with disabilities should not see reductions in service levels;
- Supports will continue to be based upon individual needs identified in their plan. If a person has an employment or daily living goal in their individual plan, the state long-term care program must ensure continued supports.
- The changes should expand the range of community integrated residential, employment, and day service options available.
- Some changes to the settings where services are provided or how services are delivered may be required

Q. Will the HCBS rule or Wisconsin DHS take choices away from people?

No. All services eligible for HCBS will continue to be offered; the HCBS rule does not require states to eliminate any service and there is no reduction of funding for service plans. Some settings and service delivery may have to make adjustments to meet HCBS integration requirements.

In many Wisconsin communities, many settings have isolating qualities like those that the HCBS rule describes. Integrated residential, employment, and day services are not available statewide, and wait lists exist in many areas for integrated options. Families and individuals indicate they want community based options. The HCBS rule will expand choices for families and individuals who have been waiting for community based options in their communities.

Q. What has happened to people in other states that have shifted to community-based supports?

Although transition to better community supports takes time, multiple states have been successful in transitioning people with disabilities to community based residential, employment, and day services from facility-based settings. Wisconsin, like other states, will have five years to plan with families and providers to do this.

[Vermont](#)ⁱⁱ worked with families to transition from facility based employment to community based employment in 2002, and public dollars are now used only for community employment services. According to a recent [article](#)ⁱⁱⁱ, “*Within three years, about 80 percent of people who’d worked in the last sheltered workshop to close found jobs. Those who didn’t got other services based in the community.*” In Rhode Island—where the state signed a [consent decree](#)^{iv} in April of 2014 with the U.S. Department of Justice and agreed to help workshop clients find employment and day services in the community—transition into the community is underway. Many people with disabilities are successfully moving into community based jobs quickly; [almost half](#)^v of the people in the facility at the root of the court case have already been successfully placed in community jobs. Many families in both these states were originally concerned with these changes, and are now publicly stating confidence in the community based approach.

Q: Does this rule change force current providers to close?

No. The HCBS rule does not require any facilities to close. No provider is being forced to close. There is no reduction of Medicaid funds.

To meet the HCBS rule requirements, some providers will have to change their service delivery models over the next five years to continue to receive Medicaid dollars. Some providers delivering integrated community employment, day, and residential services may already meet HCBS requirements; few changes will be necessary for these providers.

The required State Transition plan gives providers who do not currently meet HCBS settings or service delivery requirements 5 years with accompanying technical support to make necessary changes.

Q: Have Wisconsin providers been able to change to provide community based services?

Yes. Some Wisconsin providers that have successfully transitioned to integrated settings service delivery. There are also providers currently in the process of voluntarily shifting their service model. For example, Wisconsin's largest private independent social services agency is transitioning their residential and day services to a community integrated support model. Individual Wisconsin providers in Milwaukee, Grafton, and Ashland and Bayfield counties have also moved toward community based day service models.

Dane County made a public policy change 25 years ago that places community integrated employment as the central element around which other community-based individualized supports and services are built. This has resulted in high integrated employment rates (75%) for people with disabilities in long-term care, as well as employment providers transitioning their service model from facility-based to community integrated employment services. Today, 14 of the county's 17 employment providers offer integrated employment services exclusively. Dane County's residential and day services providers have also transitioned to integrated settings and service delivery.

Following the 1999 Supreme Court decision *in Olmstead v. L.C.* requiring more integration for people with disabilities, Wisconsin received \$75 million over ten years (ending in 2011) to build integrated employment service capacity, including specific efforts to assist facility-based CRPs to transition to integrated employment service delivery. You can watch [several CRP leaders](#)^{vi} who were grant recipients discuss why they chose to participate in the need to expand access to integrated employment.

Q: What about time when people are not at work?

Community integrated employment is an important component of a quality integrated life and is a goal in many individual service plans. However, many people with disabilities do not work a full 40 hour week. Providing support that helps adults to access community integrated activities

and resources when individuals are not at work is also necessary. HCBS funding can be used to support community based activities outside of work.

For example, Dane County places employment as the central element around which other individualized community integrated day service supports are built. This approach accounts for all hours in a person's week. When a person is not working in the community, community activities—classes, volunteer opportunities, physical exercise, etc.—that are individually tailored to a person's interests, abilities, and goals provide each person with a full week and full life.

There are people without disabilities who work part time, and they fully expect to interact with the community doing a variety of things that are necessary or are of personal interest. People without disabilities who work full time still expect to do things outside of work. People with disabilities should have the same expectation of being in the community when they are not at work.

The goals of the HCBS rule are to ensure that people with disabilities have the same access to all facets of community as people without disabilities. This includes community integrated day services.

Q: Does this rule cut Medicaid funds to the state?

No. This rule change does not reduce the amount of Medicaid funding available to the state.

Q. Can we really employ more people with disabilities in the community in this job market?

The current job market for the general public is not a good measure of whether people with disabilities can be successful in gaining employment in a community. People with the most significant disabilities typically do not "compete" on the open market for the same type of jobs that anyone else does, and typically are not seeking full-time employment. Skilled job developers know how to carve part-time, specialized jobs in businesses that incorporate the individual's strengths, while ensuring that the business remains or becomes more profitable. Successfully finding work for people with disabilities occurs during both strong and weak economic times.

This skill set is considered nationally to be best practice and is designed to help people achieve individual employment goals that meet their interests and strengths. This approach also actually increases choice for individuals with disabilities, allowing them to pursue jobs that align best with their interests and skills. People with significant disabilities work with animals, in child care, in outdoor jobs, and have their own small businesses. In contrast, most facility-based jobs are in assembly or piece work. Increasing the availability of diverse quality job development can be a part of DHS' plans to increase capacity across the state so community employment options are possible everywhere.

Q. What about people with significant disabilities? Can they work in the community?

Yes. Wisconsin's [Division of Vocational Rehabilitation](#)^{vii} presumes every person with a disability can work in the community. People with the most significant disabilities may be more complex to support on the job, but with the right supports both DVR and Dane County have demonstrated that there is work for virtually all people with disabilities. Dane County's employment rate for people with disabilities is 75% and that includes people with the most significant disabilities. In contrast, the integrated employment rate for individuals with the same level of disability is 8% in Family Care and 5% in IRIS.

For more than 20 years, Dane County has been offering a different model of employment supports than the rest of the state – focusing on community employment for youth leaving high school. Last year, 51 out of 52 high school students with long-term support needs exited Dane County schools with paid employment.

Q. Don't people with disabilities work fewer hours in the community than in facility-based employment?

Many people with disabilities do not work a 40 hour week. It is important to note that people with disabilities who work in facility-based employment also have significant down time between jobs and often do not work full-time while in the facility. They only work when a contract has been secured and needs completion. The average number of hours worked in integrated employment is only 6 hours per month less than in facility-based employment: only 90 minutes per week less than those in integrated employment. Under the new rule, the hours during the week when an individual is not working can still be supported in a community setting using Medicaid-funded services, just as non-work time, often called "down time," at facilities is currently supported

Q. Is integrated employment more expensive than facility based employment?

[Several studies](#)^{viii} using Wisconsin employment data and comparing people with the same disability types, including individuals with significant disabilities, have shown community employment is less costly than facility-based employment. While supported employment has an initial higher cost than facility-based employment, over the entire lifetime employment cycle, supported employment is 65.9% cheaper to fund than facility-based employment as the need for direct supports fades over time.

A study conducted with 1118 people with disabilities in Wisconsin found that employment support costs for those working in sheltered workshops was an average of 33.7% higher than for their peers with the same level of disability who worked in community integrated jobs. A study of almost 10,000 individuals nationally found that annual costs for sheltered workshop services averaged \$7894.63 per person per year compared to \$4542.65 for individuals with the same disability levels.

The [Department of Health Services December 2013 report on long-term care](#)^{ix} states: “Members involved in community-based and meaningful employment have better health outcomes which reduce expenditures for long-term supports and medical care. This increases the cost-effective management of long-term care programs.” The report has specific data showing that community-based, integrated employment is more cost-effective, and notes that paid employment strongly relates to lower Medicaid expenses. Nothing in the new HCBS Rule reduces funding to support individuals to meet their person-centered plans.

Additionally, research finds that individuals working in the community who had received training at sheltered workshops earned 30% less than the group that had never been in a workshop. The participants who had training in a workshop made less money compared to people who had the same level of disability in their jobs. In addition, the average cost of community supports for people who had previously been in workshops was higher than for those who had their employment training in integrated community settings.

Q. Doesn't facility-based employment train people for community employment?

Current CMS guidance states in its pre-vocational services definition that pre-vocational training is intended to be time limited, work towards achieving specific employment goals, and result in an integrated employment outcome. Wisconsin data demonstrates that pre-vocational training service dollars are not resulting in integrated employment outcomes. As of April, 2014, only eight percent (8%) of the nearly 28,000 working-age individuals with disabilities enrolled in Wisconsin's managed long-term care program (Family Care) and five percent (5%) in its self-directed supports waiver (IRIS) were working in community integrated employment. Wisconsin ranks fourth in the nation for the number of people per capita that receive services in Medicaid funded sheltered workshops.

Research has demonstrated that once an individual with disabilities begins working in facility-based employment, chances are low that they will move into integrated employment. Ninety-five percent (95%) of individuals with disabilities who entered sheltered workshops did not ever move into integrated employment, according to a national-level analysis of data by the Government Accountability Office.

Q: What is required of states?

A 5-year transition plan is required in all states to ensure that public funds for home and community-based services are not used in ways that isolate older adults and people with disabilities.

Wisconsin Department of Health Services (DHS) must create a Transition Plan that tells the federal government how Wisconsin will transition to meeting the HCBS requirements over five years (March of 2019). This plan is supposed to show how programs like **Family Care**, **IRIS**, the **Legacy Waivers**, and the **Children's Long Term Support Waivers** will meet these new expectations, and how services and supports will make sure people with disabilities are living, working, and involved in their communities.

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- ⁱ CMS Final Rule Medicaid HCBS webinar presentation: <http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Long-Term-Services-and-Supports/Home-and-Community-Based-Services/Downloads/Final-Rule-Slides-01292014.pdf>
- ⁱⁱ Vermont Division of Disability and Aging Services, Supported Employment program: <http://www.ddas.vermont.gov/ddas-programs/programs-se-default-page>
- ⁱⁱⁱ *Vermont Closed Workshops for People with Disabilities: What Happened Next?* http://publicsource.org/investigations/vermont-closed-workshops-for-people-with-disabilities-what-happened-next#.VDbdLWddX_M
- ^{iv} *Rhode Island Settles Case on Jobs for Disabled:* <http://www.nytimes.com/2014/04/09/us/developmentally-disabled-get-more-workplace-protections.html>
- ^v A Couple Gaining Independence, and Finding a Bond: http://www.nytimes.com/2014/10/05/us/a-couple-gaining-independence-and-finding-a-bond.html?_r=1
- ^{vi} Pathways to Independence: <https://www.youtube.com/watch?v=xd3ggUwLHbw&feature=youtu.be>
- ^{vii} Wisconsin Division of Vocational Rehabilitation: <http://dwd.wisconsin.gov/dvr/>
- ^{viii} *Is Supported Employment a Good Investment for Taxpayers? Or Are Sheltered Workshops Cheaper to Operate?:* <http://thecpsd.org/wp-content/uploads/2014/02/Is-Supported-Employment-a-Good-Investment-for-Taxpayers.pdf>
- ^{ix} Wisconsin Department of Health Services Joint Committee on Finance Long-Term Care Expansion Report: <http://www.dhs.wisconsin.gov/publications/P0/p00590.pdf>