HCBS Quality Assurance, Regulatory Compliance and National Core Indicators

An Important Tool for States

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Overview

- Quality in home and community based waivers as authorized under Section 1915(c) of the Social Security Act is unique in the Medicaid landscape.
- States have to demonstrate compliance with 6 statutory assurances through a method of continuous quality improvement.
- In addition to the statutory assurances, states must now devise strategies to demonstrate compliance with the new regulations

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Statutory Assurances

- Administrative Authority
- Level of Care
- Qualified Providers
- Service Plans
- Health and Welfare
- Financial Accountability

For each assurance, there are a number of sub-assurances that require their own demonstration of compliance.

Items in blue represent areas where NCI data can be used to round-out a data set to inform compliance.

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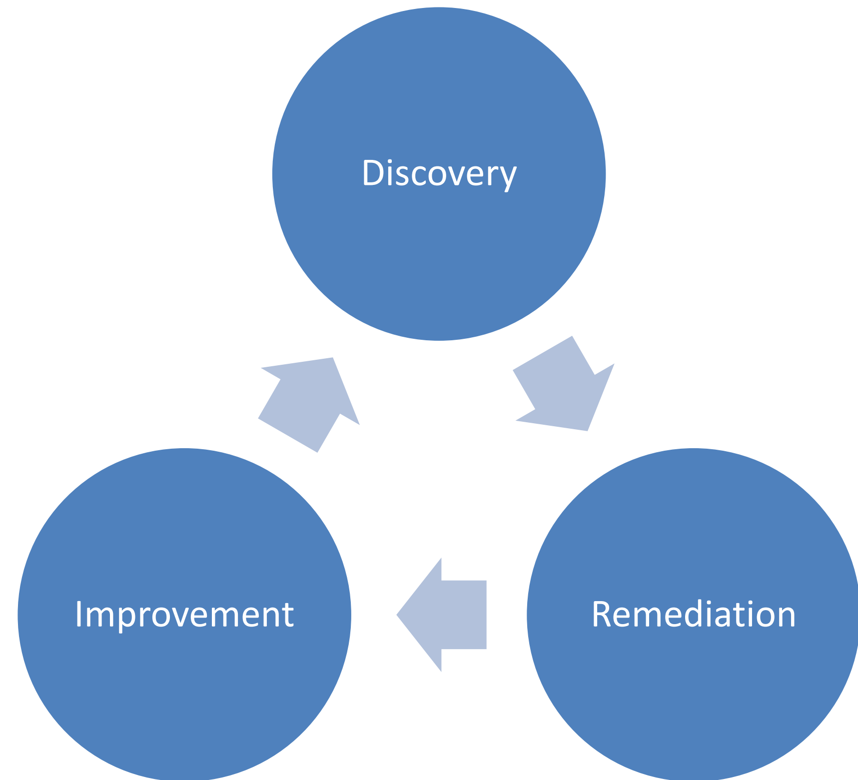
State Use of NCI in HCBS CQI

At each step in the CQI, NCI can be used to validate findings and complement information obtained from administrative data sources, inform remediation strategies, and provide a roadmap to effective and well-calibrated systems improvement activities.



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NCI as a Data and Validation Source for Waiver Quality

- States are using NCI data in their waivers' discovery processes. Often this data is used in addition to or to validate other sources of data, such as administrative information
- States regularly use NCI to inform areas where systems improvements can occur, and can longitudinally use NCI to monitor their efficacy.

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NCI: Not Just for Waivers Anymore

- While the quality requirements in waivers are unique, other Medicaid authorities have quality expectations where NCI could assist:
  - 1915(i) HCBS as a State Plan Option
  - 1915(k) Community First Choice Option
  - Many 1115s including HCBS
  - 1915(b) waivers that run concurrently with HCBS programs or that offer HCBS through savings or cost effective alternative services

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NCI As a Tool to ensure Regulatory Compliance

- CMS finalized regulations for HCBS (1915(c), 1915(i), and, for the settings requirements only, 1915(k)) on March 17, 2014.
- All provisions were effective on that date, with the exception of the settings requirements. States were given one year to develop a transition plan, to describe how they will ensure compliance with these provisions by 2019.
- At least 14 states have indicated their intention to use NCI in their transition plans.

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HCBS setting requirements

- Is **integrated** in and supports **access to the greater community**
- Provides **opportunities to seek employment** and work in competitive integrated settings, engage in community life, and control personal resources
- Ensures the individual receives services in the community **to the same degree of access as individuals not receiving Medicaid** HCBS services
- **Setting is selected by the individual** from among setting options including non-disability specific settings & an option for a private unit in a residential setting
- The setting options are identified and **documented in the person-centered service plan** and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board
- Ensures an individual's **rights of privacy, dignity, respect, and freedom** from coercion and restraint
- **Optimizes individual initiative, autonomy, and independence** in making life choices
- **Facilitates individual choice** regarding services and supports, and who provides them

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HCB Settings character - NOT

- Settings that are NOT Home and Community-based:
  - Nursing facility
  - Institution for mental diseases (IMD)
  - Intermediate care facility for individuals with intellectual disabilities (ICF/IID)
- Settings **PRESUMED not** to Be Home And Community-based
  - Hospital Settings in a publicly or privately-owned facility providing inpatient treatment
  - Settings on grounds of, or adjacent to, a public institution
  - Settings with the effect of isolating individuals from the broader community of individuals not receiving Medicaid HCBS

A state submits evidence (including public input) demonstrating that the setting does have the qualities of a home and community-based setting and NOT the qualities of an institution; AND

The Secretary finds, based on a **heightened scrutiny** review of the evidence, that the setting meets the requirements for home and community-based settings and does NOT have the qualities of an institution

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Person-centered planning

- The person-centered planning process is **driven by the individual**
- Includes **people chosen by the individual**
- Provides necessary information and **support to** the individual to **ensure that the individual directs the process** to the maximum extent possible
- Is timely and occurs at times/locations of **convenience to the individual**
- Reflects **cultural considerations/uses plain language**
- Includes **strategies for solving disagreement**
- **Offers choices** to the individual regarding services and supports the individual receives and from whom
- Provides method to **request updates**
- Conducted to reflect **what is important to the individual** to ensure delivery of services in a manner reflecting personal preferences and ensuring health and welfare
- Identifies the **strengths, preferences, needs** (clinical and support), and desired outcomes of the individual
  May include whether and what **services are self-directed**

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CONFLICT OF INTEREST

- **Providers of HCBS for the individual, or those who have an interest in or are employed by a provider of HCBS for the individual must not provide case management or develop the person-centered service plan***,* except when the State demonstrates that the only willing and qualified entity to provide case management and/or develop person- centered service plans in a geographic area also provides HCBS.

Where there is conflict of interest,

- …, the State must devise conflict of interest protections including separation of entity and provider functions within provider entities, which must be approved by CMS. Individuals must be provided with a clear and accessible alternative dispute resolution process.

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NCI As a Tool to ensure Regulatory Compliance

- NCI – the proverbial "canary in the coalmine"
  - Many states that have identified NCI as a tool for transition and ongoing compliance note that NCI is a strong starting place to identify structural or programmatic barriers to compliance and can provide ongoing data to check whether improvement strategies have had desired outcomes.

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Status of State Transition Plans

- As of August 2015, all states have submitted initial statewide transition plans to CMS.
- CMS is in the process of sending letters to states identifying areas of needed improvement or strengthening.
- CMS will be working with states on their transition plans over the coming months.
- CMS expects that *all states* will have some settings that are presumed to be institutional. States should explain how they are discontinuing their use, how they are making improvements to ensure they meet the rule, or, should they choose to request heightened scrutiny, what evidence they are using to demonstrate that the setting actually does meet the HCBS requirements.