

CMS' Proposed Definition of "Home and Community-based Settings"

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The Center for Medicare and Medicaid Services has issued its Proposed Rules which define what it means to live in "a home and community-based setting." See 77 Federal Register at 26382. We think it is important for your voices to be heard and your comments must be submitted and received before 7/2/12.

While some disability advocates have responded to CMS previously regarding the same issue, many providers and other service entrepreneurs (for profit and not-for-profit) have a different view regarding what "home and community-based setting" means. CMS, instead of just doing the right thing, seems to have gotten frightened by the outpouring from the providers and has requested additional comments.

In a thumbnail, we always thought that people with disabilities want to live in settings just like people without disabilities with the same rights and responsibilities. What a revolutionary idea! Hmmm. Here are some points you might want to include if you write to CMS:

1. Nondisabled people do not have their housing conditioned on whether or not they accept services.

Therefore, housing rights for people with disabilities should be entirely separated from services that a person may or may not want, need or desire without any conditions related to services.

2. Nondisabled people are afforded the protections (and assume the responsibilities) from eviction under your State's landlord tenant law.

Therefore, disabled people should have the same rights, protections and responsibilities under your State's landlord tenant law.

3. Nondisabled people, wherever they reside, have an absolute right, wherever they reside to the following minimum rights.

Therefore, if a person with a disability resides in a "provider-owned or controlled residential setting," the following minimum rights should be required no "wobble room," no "if, and, or buts," no presumptions of any kind that undercut or infringe on these minimums:

- a. A lease under the State's landlord tenant law protecting against illegal evictions.
- b. Privacy in sleeping and living units. This means a lockable entrance.
- c. Sharing units ONLY if person with disability freely and knowingly wants to share and with person of one's choice.
- d. Right to decorate sleeping and living units.
- e. Control own schedules and access to food at any time.
- f. Visitors of their choosing at any time.
- g. Physically accessible.

Nondisabled persons would not consider it a "home" if they did not have ALL of these protections.

Tell CMS no restrictions of basic housing rights for persons with disabilities. Tell CMS not to fund services in settings which do not comply..

Are we missing something? Aren't these basic, minimal human rights? What does it matter if the person is disabled or nondisabled?

Advocates -- send your comments to:

Centers for Medicare & Medicaid Services
Dept. of Health and Human Services
Attention: CMS-2249-P2
P.O.Box 8016
Baltimore, MD 21244-8016

These must be received before July 2, 2012.

Steve Gold, The Disability Odyssey continues

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