Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 3—Conditions of Provider Participation, Reimbursement and Procedure of General Applicability

PROPOSED RULE

13 CSR 70-3.280 Home and Community-Based Services Waiver Definitions

PURPOSE: This rule defines terms used in 13 CSR 70-3.290, which implements federal regulatory requirements promulgated by the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services at 42 CFR 441.301(c)(4). These requirements must be met for settings in which home and community-based services are provided under a 1915(c) HCBS Waiver Program.

(1) "Enroll/Enrollment" is the process that Missouri Medicaid Audit and Compliance (MMAC) uses to establish eligibility to receive a Medicaid billing number and/or Medicaid billing privileges. The process includes—

(A) Identification of a provider;

(B) Validation of the provider's eligibility to provide items or services to Medicaid beneficiaries;

(C) Identification and confirmation of the provider's practice location(s) and owner(s); and

(D) Granting the provider Medicaid billing privileges and/or a Medicaid billing number.

(2) "Heightened Scrutiny" is a process whereby a provider submits information to DSS, or its designee, to overcome the presumption that the setting has the qualities of an institution. If DSS or its designee, based on the information presented by the provider, determines that the setting does have the qualities of a home and community-based setting, the evidence will be sent to the Centers for Medicare and Medicaid Services. The Centers for Medicare and Medicaid Services will review evidence submitted by the state and make a final determination as to whether the evidence is sufficient to overcome the presumption that the setting has the qualities of an institution. These settings include those in a publicly or privately-owned facility that provide inpatient treatment; are on the grounds of, or are immediately adjacent to, a public institution; or that have the effect of isolating individuals receiving Medicaid-funded Home and Community-Based Services (HCBS) from the broader community of individuals not receiving Medicaid-funded HCBS.

(3) "Home and Community Based Services" are MO HealthNet Division covered services provided to individuals in their own home or community rather than in a hospital, nursing home or intermediate care facility for individuals with intellectual disabilities.

(4) "Home and Community Based Services Waiver" is a program approved by the Centers for Medicare and Medicaid Services under the authority of Section 1915(c) of the Social Security Act that provides home and community based services.

(5) “Hospital” is a facility licensed by the Missouri Department of Health and Senior Services, or by the appropriate state agency for facilities located in another state, as an acute care, psychiatric or rehabilitation hospital.

(6) “Institution for Mental Diseases (IMD)” is a hospital, nursing facility, or other institution of seventeen (17) beds or more that is primarily engaged in providing diagnosis, treatment, or care of people with mental diseases.

(7) “Intermediate Care Facilities for individuals with Intellectual disability (ICF/IID)” is a facility as defined at 19 CSR 30-83.010(24).

(8) “Missouri Medicaid Audit and Compliance Unit (MMAC)” is the unit within the Department of Social Services that is responsible for the oversight and auditing of compliance for the Medicaid Title XIX, CHIP Title XXI, and Waiver Program in Missouri, which includes the oversight and auditing of compliance of MO HealthNet providers and Medicaid participants through the lock-in program. MMAC is charged with the responsibility of detecting, investigating, and preventing fraud, waste, and abuse of the Missouri Medicaid Title XIX, CHIP Title XXI, and Waiver Programs.

(9) “MO HealthNet” is the division within the Department of Social Services, pursuant to sections 208.001 and 208.201, RSMo, that administers the Medicaid Title XIX, CHIP Title XXI, and waiver programs, approves claims from MO HealthNet providers for services or merchandise provided to eligible Medicaid participants, and authorizes and disburses payment for those services or merchandise accordingly.

(10) “MO HealthNet Program” is a program operated pursuant to Title XIX of the Social Security Act, Title XXI of the Social Security Act and/or waiver programs authorized by the United States Department of Health and Human Services.

(11) “Licensed Nursing Home” is a skilled nursing facility as defined at 19 CSR 30-83.010(49).

(12) “Person-Centered Service Plan” is a document that is the result of a planning process which identifies the strengths, capacities, preferences, needs, goals, and desired personal outcomes of the individual.

(13) “Provider” is a person or entity who enters into a contract or provider agreement with MMAC for the purpose of providing items or services to Missouri Medicaid participants. Provider includes ordering and referring physicians, dentists, and non-physician practitioners.

(14) “Provider Owned or Controlled Residential Setting” is a physical place where an individual resides and is owned, co-owned, and/or operated by a provider of HCBS. A setting is considered provider owned or controlled if the HCBS provider leases from a third party or owns the property. If the HCBS provider does not lease or own the property but has a direct or indirect financial relationship with the property owner, the setting is considered provider controlled unless the property owner or provider establishes that the nature of the relationship did not affect either the care provided or the financial conditions applicable to tenants.

(15) “Residential Setting” is a physical place to live where an individual has services and supports, ranging from 24-hour supervision to on-call assistance, to live as independently as possible.

(16) “Revalidation” is a requirement that all existing MO HealthNet Program providers must go through in accordance with 13 CSR 65-2 to continue to be a MO HealthNet Program provider.

(17) “Setting” is the place where a home and community-based service or support is provided.

AUTHORITY: sections 208.153, 208.201, and 660.017, RSMo. Original rule filed December 21, 2018.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Social Services, Legal Services Division-Rulemaking, P.O. Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.