



Home and Community Based Services Settings Final Rule

A Fact Sheet for Colorado Providers

Introduction

The Centers for Medicare & Medicaid Services (CMS) released a rule for Home and Community Based Services (HCBS) Settings in March 2014. The HCBS Settings Final Rule supports person-centered, safe, quality Home and Community Based services funded through 1915(c) and 1915(k) waivers and 1915(i) state plan amendments. The rule features two key provisions:

- Person-Centered Planning Process
- Settings Requirements

CMS requires all settings be compliant with the provisions by March 2019. To assist Colorado's providers in becoming compliant, the Department released two provider surveys to assess current provider compliance status, as well as provided four trainings to help providers better understand the Final Rule and the requirements for each setting. The materials from those trainings are posted on our website:

www.colorado.gov/hcpf/home-and-community-based-services-settings-final-rule.

This fact sheet assists Colorado providers in becoming fully compliant with the Final Rule and improving HCBS Settings and Services for the individuals who use them. As you read this, keep the following questions in mind:

- What changes may be necessary within these settings to enable full access to the community?
- What support do I need from the Department to be able to support individuals' full access to the community?
- How are an individual's choices, freedom and independence ensured and prioritized within these HCBS settings?

Person-Centered Planning Process

Person-Centered Planning (PCP) emphasizes the person's perspective in the service planning process, and identifies areas a service plan should address.



A Person Centered Plan:

- Is driven by the individual and includes participation by people chosen by the individual;
- Provides necessary information and support to the individual to help them direct the process to the maximum extent possible;
- Occurs at the times/locations that are convenient for the individual;
- Reflects cultural competency and uses plain language;
- Includes strategies for solving disagreements;
- Offers the individual choices regarding services and supports they can receive;
- Provides a method to request plan updates.

Home and Community Based Services (HCBS) Settings Requirements

The HCBS Settings Requirements ensure people have opportunities to be fully integrated into their communities, and increase protections for people wherever they receive HCBS services. In general, all HCBS settings must have the following characteristics:

- **Integration with the Community:** Settings must be integrated into the community and support “full access” for the individual to their community. Settings that provide integration with the community provide individuals with opportunities to:
 - Engage in community life
 - Control personal resources
- **Choice:** The individual must be able to choose from various settings options, including non-disability specific settings. Providing the opportunity for individual to choose the setting from other options, including non-disability specific settings:
 - Reflects the individual’s needs and preferences.
 - Provides policies to ensure informed choice of the individual.
 - Ensures the setting options include the opportunity for the individual to choose to combine more than one service delivery setting, or type of HCBS service in any given day/week.

Additional information on PCP:

- [Person-Centered Planning](#) and self-direction guidance issued by HHS.
- [Video of Michael Smull](#), an expert in Person Centeredness discussing what PCP involves.



- **Rights:** The individual must have rights to privacy, dignity, respect and freedom from coercion and restraint.
 - All of the information about the individual is kept private.
 - Staff interact and communicate respectfully, and address the individual in a manner in which they want to be addressed.
 - Informed consent is granted prior to the use of restraints and/or restrictive interventions.
 - The setting offers a secure place for the individual to store personal belongings.
- **Independence:** The settings must maximize the individual's ability to make life choices and decisions regarding services and supports. Settings that allow for independence optimize the individual's ability to make life choices, including, but not limited to:
 - Daily activities, physical environment, and with whom to interact;
 - Facilitate individual choice regarding services and supports, and who provides them;
 - Encourage choice regarding the services, provider, settings, and the opportunity to visit/understand the options.

The requirements for the PCP Process and HCBS Settings apply across all residential and non-residential HCBS settings. Information specific to these types of settings is in the sections below.

Non-Residential Settings

Colorado's non-residential settings included under the Final Rule include: Adult Day Care, Specialized Adult Day Care, Day Treatment, Day Habilitation, Supported Employment, Prevocational Services, and Supported Community Connections. Under the Final Rule, non-residential settings must:

- Integrate with the community, including the ability to seek employment and work in competitive integrated settings;
- Allow for informed choice;
- Respect participant rights;
- Maximize independence.

Residential Settings

Colorado's residential settings included under the Final Rule are: Alternative Care Facilities; Residential Habilitation Settings, such as Group and Host Homes, Supportive Living Programs,

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Congregate Settings, Transitional Living Programs, as well as settings for Child Residential Habilitation.

Under the Final Rule, settings owned or controlled by providers need to have a legally enforceable, written agreement with tenants and follow the same landlord tenant law which discuss responsibilities and protections from eviction that apply to all rental agreements in their geographic area. The key characteristics residential settings must include are:

- Privacy in their living/sleeping unit;
- A choice of roommates;
- Units with lockable entrance doors;
- Freedom to furnish and decorate;
- Freedom and support to control schedules and activities;
- The ability to have access to food any time;
- Freedom to have visitors at any time;
- Be physically accessible to the individual;
- Modifications to these requirements are allowed when supported by a specific assessed need. Proper documentation is required as well as informed consent.

More Information:

[Medicaid.gov Home and Community Based Page](#) includes the text of the final rule and additional guidance.

- [Regulatory Requirements for Home and Community-Based Settings](#)
- [Guidance on Settings That Have the Effect of Isolating Individuals Receiving HCBS From the Broader Community](#)
- [Residential Settings Exploratory Assessment Questions](#)
- [Non-Residential Settings Exploratory Assessment Questions](#)
- [Questions and Answers Regarding HCBS Settings](#)

Questions or concerns?

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