Home and Community-Based Services (HCBS)

Final Rule

FOR CONSUMERS AND FAMILIES:

People with intellectual and developmental disabilities are provided many services because of the Lanterman Act. Many services people receive are paid for with state and federal money from the federal Centers for Medicare and Medicaid Services (CMS). Therefore, California must comply with what is called the Home and Community-Based Services (HCBS) Final Rule. This rule sets requirements for HCBS settings, which are places where people live or receive services. Each state has until March 2019 to help providers comply with the HCBS Final Rule.

The HCBS Final Rule Applies to:

- Residential and non-residential settings; including certified and licensed homes
- Day programs, and other day-type services
- Employment options and work programs

The HCBS Final Rule Does NOT Apply to:

- Nursing homes
- Hospitals
- Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID)
- Institutions for mental diseases (IMD)

What is the Goal of the HCBS Final Rule?

To enhance the quality of services provided by:

- Maximizing opportunities and choices for individuals
- Promoting community integration by making sure individuals have full access to the community
- Making sure individuals have the opportunity to work and spend time with other people in their community who do not have disabilities
- Ensuring individual preferences are supported and rights are protected
- Establishing person-centered service planning requirements, which includes a process driven and directed by the individual to identify needed services and supports

All Settings

The Final Rule requires that you can:

- Spend time in, and being a part of, your community
- Work alongside people who do not have disabilities
- Have choices regarding services and supports, and who provides them
- Have control of your schedule and activities

Residential Settings

Provider Owned or Controlled

In addition to the requirements applicable to all settings, the Final Rule requires that you have:

- Choice about your roommates
- Privacy in your room, including a lock on your door
- Control of your schedule and activities
- The ability to have visitors of your choosing, at any time
- Freedom to furnish and decorate your room
- A lease or other legal agreement, protecting you from eviction

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FOR PROVIDERS:

How will your service as a provider change?

If you are a service provider who provides services to multiple consumers in the same location, we have to make sure these services do not isolate individuals from the community. The Final Rule says that settings must be integrated and support full access to the community. As a provider, you may need to modify where and how your service is delivered to meet the HCBS Final Rule. Policies and program designs may need to be changed and training to your staff may be necessary to assure their understanding of the new expectations.

Assessing Provider Settings

All providers will soon be required to complete a self-assessment survey that will help determine whether or not a setting complies with the HCBS Final Rule or if modifications are needed. For settings that require changes, there will be time to develop transition plans. Training will be provided on the self-assessment process and expectations, and additional information will be posted on the DDS webpage.

Where can I find more information?

To ask a question, make a comment, or get more information about the HCBS Final Rule, email HCBSregs@dds.ca.gov.

For more detailed information on the HCBS Final Rule and California's Statewide Transition Plan, please visit:

http://www.dds.ca.gov/HCBS/

http://www.dhcs.ca.gov/services/ltc/Pages/HCBSStatewideTransitionPlan.aspx

https://www.medicaid.gov/medicaid/hcbs/index.html

CMS' HCBS Final Rule Requirements

The setting:

1. Is integrated in, and supports full access of individuals receiving Medicaid HCBS to the greater community to the same degree of access as individuals not receiving Medicaid HCBS.

2. Is selected by the individual from among setting options including non-disability-specific settings and an option for a private unit in a residential setting.

3. Ensures an individual's rights of privacy, dignity and respect, as well as freedom from coercion and restraint.

4. Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to: daily activities, physical environment, and with whom to interact.

5. Facilitates individual choice regarding services and supports, and who provides them.

In provider-owned or controlled residential settings:

6. The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services.

7. Each individual has privacy in their sleeping or living unit; including doors lockable by the individual, choice of a roommate if sharing a unit, and the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.

8. Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time.

9. Individuals are able to have visitors of their choosing at any time.

10. The setting is physically accessible to the individual.