



# Defining “Community”: What the Home and Community-Based Services ‘Settings’ Rule Means to DD Providers in Medicaid

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As a provider licensed or certified by the Arkansas Division of Developmental Disabilities (DDS), you should have received a survey (attached) recently to help the state determine whether you are a home and community-based services “setting.” More precisely, the survey is a starting point, and it is not definitive in and of itself. It is an effort by DDS to get the “lay of the land” as to the current state of compliance.

The survey was prompted by the issuance by the Centers for Medicare and Medicaid Services (CMS) of a Final Rule on home and community-based (HCBS) settings and other issues on January 10, 2014. An astounding five years of deliberations went into the rule, with the Developmental Disabilities Provider Association (DDPA) and many other groups on all sides of the various issues submitting comments.

The rule addresses requirements for home and community-based services (HCBS) provided through the following four subprograms within Medicaid:

- 1915(c) waivers
- 1915(i) state plan services
- 1915 (k) “Community First Choice” state plan services
- 1115 Demonstration Waivers (indirectly)

The Final Rule covers a lot of ground surrounding home and community-based services. In case you are interested only in some parts of the rule, here is a breakdown of how this article is organized:



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## HCBS Settings

The most anticipated part of the Final Rule defines what CMS considers to be a “home and community-based setting.” If your provider operation does not qualify as a HCBS setting, then the state will not be permitted to reimburse you through the above programs. That does not mean that you could not receive funding under some other Medicaid non-HCBS program, if one is available, but is a significant issue for DD providers in Arkansas who participate in the Alternative Community Services (ACS) waiver program. It also poses questions about how to treat the Developmental Day Treatment Clinic Services (DDTCS) program.

### Why is CMS doing this?

An important question is why did CMS decide to issue the rule? What was the problem that needed to be fixed? In answering this question, CMS went back to the history of Medicaid home and community-based waivers, which were established beginning in 1981 under Section 1915(c) of the Social Security Act. Waivers were designed to provide alternatives to institutionalization in nursing homes and institutional care facilities for intellectual disabilities. “Over time,” CMS says, “a variety of settings were developed to serve individuals in need of long term services and supports, and questions arose as to whether certain settings presented true alternatives to institutions.” In other words, CMS believes some settings are not truly home and community-based in nature and thus do not qualify for reimbursement under these programs.

The guiding principle: CMS expects HCBS beneficiaries to have the same access to broad community involvement and independence as non-Medicaid HCBS beneficiaries do.

### What happens if you fail to qualify as a HCBS setting?

CMS makes a point of clarifying that although some settings now receiving HCBS waiver funding may no longer qualify under the Final Rule, that does not mean that they cannot receive other non-HCBS Medicaid funding. However, at present, no other funding source is as extensive or flexible as the DD waiver. We understand that DDS intends for all residential settings to be in full compliance with the Final Rule by July 1, 2015, in conjunction with the implementation of CFC or a new comprehensive 1915(c) waiver.

The lengthy run-up to the Final Rule saw CMS and stakeholders embroiled in debates about which particular settings were or were not home and community-based. For example, were group homes and apartments with only disabled individuals going to be in or out? In issuing the Final Rule, CMS explained its approach as “moving away from defining home and community-based settings by ‘what



they are not,’ and toward defining them by the nature and quality of individuals’ experiences.” Thus, some DD group homes and apartment complexes likely will qualify as home and community-based, while it is possible others may not, at least not without making some changes to their operations.

### **How does the Proposed Arkansas DDS HCBS Settings Rule fit into this?**

In August, DDS published a draft rule, “Certification Standards for Home and Community Based Services and Support.” Providers would have to comply with this rule to be considered in compliance with the HCBS settings rule. However, the draft rule contained many provisions not mandated by the federal settings rule, but rather ideas that have been on the drawing board at DDS for years. The DDS proposed rule immediately generated much concern and confusion. While the DDS proposed rule is beyond the scope of this article, the basic premise is that DDS would like to use a single set of rules to address all certification issues, not just those related to settings. This may be a good approach and less burdensome for providers than having multiple and overlapping regulations, but many of the details need more provider input and further revisions.

## **The HCBS “Settings” Rule in a Nutshell**

What follows are the final requirements CMS developed for HCBS settings.

### **Basic requirements to qualify as a home and community-based setting**

To be considered “home and community-based,” a setting must have all of the following qualities:

1. The setting is integrated in and supports full access to the greater community, including opportunities to seek employment, engage in community life, control personal resources, and receive services in the community to the same degree as individuals not receiving Medicaid HCBS.
2. The individual selects the setting from options that include non-disability specific settings and an option for a private unit in a residential setting. The setting options are documented in the person-centered service plan and are based on the individual's needs and preferences, and, for residential settings, the individual’s resources for room and board.
3. The setting ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.
4. The setting optimizes individual initiative, autonomy, and independence in making life choices.



5. The setting facilitates individual choice regarding services and supports, and who provides them.
6. Other qualities CMS determines are appropriate, based on an individual's person-centered service plan.

**Additional requirements for provider-owned or controlling settings.**

If a setting is owned or controlled by a provider, it must have the above qualities PLUS these:

1. The dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement that provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law;
2. Each individual has privacy in their sleeping or living unit, including choice of roommate and lockable entrance doors; and
3. Individuals have the freedom and support to control their own schedules and activities and have access to food at any time;
4. Individuals are able to have visitors of their choosing at any time; and
5. The setting is physically accessible to the individual.

**Modifications:** Any modification of these additional requirements must be supported by a specific assessed need and justified in the individual's person-centered service plan. A "company policy" or "house rule" cannot suffice to limit these rights. The documentation regarding the modification must include the following requirements:

- Identify a specific and individualized assessed need.
- Document the positive interventions and supports used prior to any modifications.
- Document less intrusive methods of meeting the need that have been tried but did not work.
- Include a clear description of the condition that is directly proportionate to the specific assessed need.



- Include regular collection and review of data to measure the ongoing effectiveness of the modification.
- Include established time limits for periodic reviews to determine if the modification still necessary or can be terminated.
- Include the informed consent of the individual.
- Include an assurance that interventions and supports will cause no harm to the individual.

### **Settings that are *not* home and community-based**

The following settings will NOT be considered “home and community-based”:

1. A nursing facility.
2. An institution for mental disease.
3. An intermediate care facility for individuals with intellectual disabilities.
4. A hospital.

### **Settings that are ‘*presumed*’ not to be home and community-based**

The Final Rule contains a “presumption” that the following types of settings will not considered home and community-based:

1. A setting housed jointly in a publicly or privately operated facility that provides inpatient institutional treatment.
2. A setting on the grounds of, or immediately adjacent to, a public institution.
3. Any other setting that has the effect of isolating individuals from the broader community of individuals not receiving Medicaid HCBS.

In the proposed rule, CMS used the phrase “disability-specific facility” to describe a type of facility that might not be considered home and community-based. This raised fears for many providers serving primarily elderly or those with disabilities, whether in residential care/assisted living or in HUD housing



complexes or similar arrangements. Due to the numerous comments received in opposition, CMS abandoned that phrase and substituted number 3 above: “*any other setting that has the effect of isolating individuals from the broader community of individuals not receiving Medicaid HCBS.*” It is not clear what this means. (79 Fed. Reg. 2968)

A state cannot include in its state plan HCBS, HCBS waiver, or Community First Choice option a setting presumed not to be home and community-based unless the 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. CMS must then find, 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.

### **What does all this mean for DD providers?**

In our view, DD waiver providers should be able to meet the settings rule without much difficulty.

Intermediate care facilities of any size are not considered HCBS.

As a starting premise, group homes and HUD housing and other apartment complexes where only persons with disabilities reside, are not automatically excluded, but they are a question mark. Each has to be examined to see if it meets the HCBS criteria. CMS stated:

It is not our intent to imply that all congregate settings should be categorized as nursing facilities and/or intermediate care facilities for individuals with intellectual disabilities. State plan HCBS must be delivered in a setting that meets the HCB setting requirements as set forth in this rule. (79 Fed. Reg. 2959)

It appeared when the Proposed Rule came out, that CMS was poised to disqualify such DD congregate settings as HCBS settings. After strong pushback, however, CMS backed off that position to a degree. It appears now that they may be “presumed” not to qualify, but the state can show with specific evidence of integration into the community that the setting does in fact comply with the HCBS criteria and, therefore, overcome the presumption.

We reach this view because CMS has issued addition guidance stating that settings with the following two characteristics alone MIGHT meet the criteria for having “the effect of isolating individuals” under that third category above:

- 1. The setting is designed specifically for disabled individuals, and often even for people with a certain type of disability; and**





2. **The individuals in the setting are primarily or exclusively disabled and on-site staff provides many services to them.**
  - In addition, CMS believes that settings that isolate people receiving HCBS from the broader community may have any of the following characteristics:
  - The setting is designed to provide disabled individuals with multiple types of services and activities on-site, including housing, day services, medical, behavioral and therapeutic services, and/or social and recreational activities.
  - People in the setting have limited, if any, interaction with the broader community.
  - Settings that use interventions that are used in institutional settings or are deemed acceptable in Medicaid institutional settings (e.g. seclusion).

The following are examples of residential settings that, according to CMS, will typically have the effect of isolating people receiving HCBS from the broader community:

- Gated/secured “community” for people with disabilities - gated communities typically consist primarily of disabled individuals and the staff that work with them. Often, these locations provide residential, behavioral health, day services, social and recreational activities, and long term services and supports all within the gated community. *Individuals receiving HCBS in this type of setting rarely leave the grounds of the gated community to access activities or services in the broader community.* Thus, the setting typically does not afford individuals the opportunity to fully engage in community life and choose activities, services, and providers that will promote integration into the broader community.
- Residential schools - these settings incorporate both the educational program and the residential program in the same building or in buildings in close proximity to each other (e.g. two buildings side by side). *Individuals served in these settings typically interact only with other residents and the staff. Individuals’ experience in the broader community may be limited to large group activities on “bus field trips.”* The setting therefore limits the individual’s access to experience in the greater community at a level that isolates individuals receiving Medicaid HCBS from individuals not receiving Medicaid HCBS.
- Multiple settings co-located and operationally related (i.e., operated and controlled by the same provider) that congregate a large number of people with disabilities together and *provide for significant shared programming and staff to a degree that limits individuals’ interaction with the broader community.*





Thus, there seems to be a presumption at CMS that DD group homes and disability-specific apartment complexes are not home and community-based settings. However, it would seem that if the state of Arkansas, with provider assistance, could show that the italicized language above is not true in a particular setting, then it should meet the “heightened scrutiny” of CMS and be qualified as a HCBS setting.

### **What about DDTCS?**

Much confusion has swirled around the question of whether licensed DDTCS centers must meet the HCBS settings requirements. Although the state, providers, and consumers all view DDTCS centers as “community” settings, under the law a DDTCS center is a “clinic” setting that provides habilitation within the confines of the center’s four walls. Thus, it would be hard to see how DDTCS centers could be considered HCBS within the meaning of the Final Rule, and CMS seems to have finally accepted that view. However, CMS has long been anxious for Arkansas to move away from this model (part of the OBRA 1989 grandfather law), and toward a more integrated model in which individuals are not restricted to the premises of the center. The state may need to find ways to incentivize providers to do this by making it financially viable.

## **Hot-Button Settings Issues**

Below are several other controversial “settings” issues addressed in the Final Rule:

### **Private rooms and roommate choices**

CMS also received many comments on whether individuals should have the right to a private room. Once again, CMS moderated its approach from the Proposed Rule:

We have clarified that we are not requiring that every individual receiving HCBS have their own bedroom when receiving residential services. The rule is requiring that individuals be provided options of residential settings, including an option of a private room. This rule does not require every provider to have a private room option. Instead it requires the State to ensure that there are private room options available within a state’s HCBS program. (79 Fed. Reg. 2964)

In short, the burden is on the state, not providers, to make sure there are private room options available in some congregate settings, though not in all.



If a provider does have both private and shared rooms, it does not mean that the individual must be allowed a private room. This was a key issue that CMS finally clarified:

We agree with the commenters that the financial resources available to an individual may impact the options available to a particular individual, and we have changed the regulatory text to make that clear. (79 Fed. Reg. 2964)

CMS goes on to explain that what is important is whether the individual has freedom of choice in *who* their roommate is. Providers will need to be extremely diligent in following this requirement and documenting it. A shared bath between adjoining rooms is acceptable, provided the choice of roommate is followed. (79 Fed. Reg. 2965)

Although CMS acknowledges that Medicaid does not pay for room and board, its position is that it is not regulating room and board. It is merely looking at all the features of a facility, including roommate choice, to determine whether the facility is indeed a “home and community-based setting.”

### **No restricted visiting hours**

CMS seems to be taking a hard line on no visiting hours. A provider who felt restricted hours were necessary for some individuals would have to follow an individualized “modification” requirement discussed above. (79 Fed. Reg. 2966)

### **Bundled services—must services be separate from the housing?**

During the comment period, there was concern that CMS would require that provision of Medicaid home and community-based services be separated from the housing provider, because some argued that is an institutional model and restricts client choice. Taking that position would have been extremely disruptive to assisted living, a model that combines the housing with services. The same concerns were raised with regard to the adult day care model and to some extent with group homes. After receiving “thoughtful comments,” CMS backed away from this approach:

The final rule clarifies that when an individual chooses to receive home and community-based services in a provider owned or controlled setting where the provider is paid a single rate to provide a bundle of services, the individual is choosing that provider, and cannot choose an alternate provider, to deliver all services that are included in the bundled rate.” (CMS Fact Sheet, Jan. 10, 2014)



That also bodes well for the Arkansas Payment Improvement Initiative, which relies on the concept of bundled payments; and for providers, for whom bundled payments are administratively less burdensome.

### **Employment and training settings (day programs) -- future guidance**

CMS has clarified in the Final Rule that requirements for HCBS apply to all settings where individuals receive HCBS-- including employment and training settings, such as day programs. It is not enough that the residential setting complies. This raises a number of thorny questions and seems sure to generate much more discussion. CMS will provide additional guidance to address the implications of the regulation for non-residential settings.

### **Requirements for state compliance and transition**

Much confusion has surrounded the transition requirements. Generally speaking, when submitting a new HCBS waiver or state plan, the state must demonstrate that it is in compliance at the time of submission. For renewals or amendments, the state has 120 days to submit a transition plan to bring settings into compliance. For currently approved HCBS waivers and state plans, the state must submit a transition plan within one year from the effective date of the act, which will fall on March 17, 2015. We hope to receive a written draft of the transition plan in January or February.

What this seems to mean for DD providers, is that by no later than March 17, 2015 the state must quickly complete the surveys, then submit to CMS the following information: which DD settings are in compliance; which settings are not in compliance; and which settings are in the “heightened scrutiny” category. For those not in compliance, and any for which CMS does not accept the state’s evidence under “heightened scrutiny, the state will have to either stop funding those providers through the DD waiver and any future HCBS programs such as Community First Choice. Or it will have to follow a transition plan accepted by CMS. If the transition plan involves any additional costs to accomplish the transition, the costs will either have to be borne by providers or funds appropriated by the General Assembly.

A state must provide a 30-day public notice and comment period on the transition plan(s) the state intends to submit to CMS. The process must include at least two statements of public notice and public input procedures, the state must ensure the full transition plan is available for public comment, and the state must consider and modify the plan as appropriate based on comments received. With the proposed transition plan, the state must submit to CMS evidence of the required public notices, a summary of the public comments received, reasons why comments were not adopted, and any modifications to the plan based on the comments. The state can implement the transition plan once it is approved by CMS.



CMS expects states to transition to the new settings requirements in as brief a period as possible, and to demonstrate substantial progress during any transition period. CMS will afford states a maximum of five years, during which time it must demonstrate substantial progress. CMS assures states that it will work closely with states as they consider how to best implement these provisions. CMS also promises to issue future guidance on requirements for transition plans.

## **Person-Centered Service Plans**

The Final Rule also contains requirements for “person-centered service plans” in the three HCBS programs. This is a process which focuses on the individual’s needs and choices. The individual directs or is at the “center” of the planning process, which may also include a representative of the individual’s choice and others, including providers, chosen by the individual to contribute to the process.

The process must result in a plan that meets certain minimum requirements, including individual goals and preferences regarding community participation, employment, income and savings, health care and wellness, and education. The plan should reflect the services and supports (paid and unpaid), who provides them, and whether an individual chooses to self-direct services.

## **Section 1915(i) State Plan HCBS**

The Final Rule fleshes out requirements for Section 1915(i), the HCBS state plan option that Congress passed in 2005, and amended under the Affordable Care Act in 2010. The rule offers states the option to provide expanded home and community-based services and to target services to specific populations.

The chief advantage of Section 1915(i) is that it finally allows states to provide true home and community-based services to adults with chronic and serious mental illness. Under 1915(c), states were unable to obtain HCBS waivers for this population because they could not show that Medicaid would otherwise be paying for their care in an institution (“institutional level of care”). This was because of the federal rule denying payment in such settings for adults 21-64.

Under 1915(i), Congress removed the institutional level of care requirement as long as the person’s income does not exceed 150% of the federal poverty level. If an individual’s income exceeds 150% of FPL, up to 300% of FPL, they must be eligible for services under an existing 1915(c) waiver.

For the state plan HCBS option, eligibility is based upon several different factors that are either specified by the law or that a state may define. These factors include financial eligibility, the establishment of needs-based criteria, an individualized functional assessment, and the state option to offer benefits differing in type, amount, duration or scope to specific populations. As with other state



plan services, the benefits must be provided statewide, and states must not limit the number of eligible people served.

The Final Rule allows coverable services under 1915(i) to include any of the services permitted under section 1915(c) HCBS waivers, such as case management services, homemaker/home health aide services and personal care services, adult day health services, habilitation services, respite care, and other services requested by the state agency and approved by CMS. The services may not include payment for room and board. States may also provide the following services to individuals with chronic mental illness: day treatment, psychosocial rehab, clinic services and other services requested by the state and approved by CMS.

Arkansas has issued a proposed rule that would use 1915(i) to replace the existing state plan service known as RSPMI.

## **Section 1915(c) HCBS Waiver Changes**

The Final Rule makes several important changes to the 1915(c) HCBS waiver program. These changes are discussed in the following paragraphs.

### **Ability to combine target groups under one waiver**

The Final Rule permits, but does not require, states to combine target groups within one HCBS waiver. Prior to that change, a single 1915(c) HCBS waiver could only serve one of the following three target groups:

- Older adults, individuals with disabilities, or both;
- Individuals with intellectual disabilities, developmental disabilities, or both; or
- Individuals with mental illness.

This change will allow states to design a waiver that meets the needs of more than one target population. If a state chooses to combine more than one target group under a single waiver, the state must assure CMS that it is able to meet the unique service needs of individuals in each target group, and that each individual in the waiver has equal access to all needed services.



### **Effective date of waivers**

CMS clarified guidance that HCBS waiver amendments with substantive changes may only take effect on or after the date the amendment is approved by CMS. Substantive changes include, but are not limited to: elimination or reduction in services; changes in qualifications of service providers; constriction in eligible populations; reduction in amount, duration, or scope of any service; change in rate methodology, and other modifications as determined by the Secretary. Substantive changes also must be accompanied by information on how the state has assured smooth transitions and minimal adverse impact on individuals impacted by the change.

### **Public input for certain waiver changes**

The Final Rule requires states to provide public notice when they propose substantive changes to their methods and standards for setting payment rates to providers for services.

States must also establish public input processes specifically for new waivers and for proposed substantive changes to existing waivers. The state must fully describe the public input process in its waiver application and must use such process for waiver policy development. The process must be sufficient to ensure meaningful opportunities for input from individuals served or who are eligible to be served. A state must provide the public with no less than thirty (30) days in which to provide input on a waiver prior to implementation of the change or submission to CMS, whichever comes first.

**Additional information** about the Final Rule can be found on the CMS website at <http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Long-Term-Services-and-Supports/Home-and-Community-Based-Services/Home-and-Community-Based-Services.html>

### **Sources**

Medicaid Program; State Plan Home and Community-Based Services, 5-Year Period for Waivers, Provider Payment Reassignment, and Home and Community-Based Setting Requirements for Community First Choice and Home and Community-Based Services (HCBS) Waivers, 79 FR 2947 (January 16, 2014), available at <https://www.federalregister.gov/articles/2014/01/16/2014-00487/medicaid-program-state-plan-home-and-community-based-services-5-year-period-for-waivers-provider>

Medicaid Program; State Plan Home and Community-Based Services, 5-Year Period for Waivers, Provider Payment Reassignment, and Setting Requirements for Community First Choice, 77 FR 26361 (May 3, 2012).





*Final Rule - CMS 2249-F – 1915(i) State Plan Home and Community-Based Services, 5-Year Period for Waivers, Provider Payment Reassignment, Setting Requirements for Community First Choice, and CMS 2296-F 1915(c) Home and Community-Based Services Waivers*, CMS Informational Bulletin (January 10, 2014), available at <http://www.medicaid.gov/Federal-Policy-Guidance/Downloads/CIB-01-10-14.pdf>

*Final Rule Medicaid HCBS, Webinar Presentation Materials, Disabled and Elderly Health Programs Group, Center for Medicaid and CHIP Services*, available at <http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Long-Term-Services-and-Supports/Home-and-Community-Based-Services/Downloads/Final-Rule-Slides-01292014.pdf>

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*HHS strengthens community living options for older Americans and people with disabilities*, CMS Press Release (January 10, 2014), available at <http://www.cms.gov/Newsroom/MediaReleaseDatabase/Press-Releases/2014-Press-releases-items/2014-01-10-2.html>

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*Summary of Key Provisions of the 1915(c) Home and Community-Based Services (HCBS) Waivers Final Rule (CMS 2249-F/2296-F)*, CMS Fact Sheet (January 10, 2014), available at <http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Long-Term-Services-and-Supports/Home-and-Community-Based-Services/Downloads/1915c-Fact-Sheet.pdf>

*Summary of Key Provisions of the Final Rule for 1915(i) Home and Community-Based Services (HCBS) State Plan Option (CMS 2249-F/2296-F)*, CMS Fact Sheet (January 10, 2014), available at <http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Long-Term-Services-and-Supports/Home-and-Community-Based-Services/Downloads/1915i-fact-sheet.pdf>





*Summary of Key Provisions of the Home and Community-Based Services (HCBS) Settings Final Rule (CMS 2249-F/2296-F)*, CMS Fact Sheet (January 10, 2014), available at <http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Long-Term-Services-and-Supports/Home-and-Community-Based-Services/Downloads/HCBS-setting-fact-sheet.pdf>

Laura Morgan, *How the New HCBS Rules Will Reshape Community-Based Services*, Open Minds, February 26, 2014.

## Residential Settings Self Study

Setting Name: [Click here to enter text.](#)

Person completing survey: [Click here to enter text.](#)

Setting Address: [Click here to enter text.](#)

Telephone Number: [Click here to enter text.](#)

# of Beds in Setting: [Click here to enter text.](#)

Email Address: [Click here to enter text.](#)

Characteristics that are expected to be present in all home and community-based setting and associated traits that individuals in those settings might experience.

1. The setting was selected by individuals.
  - a. Do you give individuals the choice of available options regarding where to live?  
 Yes  No
  - b. Do you give individuals opportunities to visit other settings?  
 Yes  No
  - c. Do the settings reflect an individual's needs and preferences?  
 Yes  No
  
2. Individuals participate in unscheduled and scheduled community activities in the same manner as individuals not receiving Medicaid HCBS services.
  - a. Do individuals regularly access the community and would they be able to describe how they access the community?  
 Yes  No
  - b. Do individuals have a choice of who assists in facilitating the activity and where they go?  
 Yes  No
  - c. Do individuals shop, attend religious services, schedule appointments, have lunch with family and friends, etc., in the community, as they choose?  
 Yes  No
  - d. Do individuals come and go at any time?  
 Yes  No
  - e. Do individual talk about activities occurring outside of the setting?  
 Yes  No
  
3. Individuals are employed or active in the community outside of the setting.
  - a. Do individuals work in integrated community settings?  
 Yes  No
  - b. If an individual would like to work, is there activity that ensures the option is pursued?  
 Yes  No
  - c. Do individuals participate regularly in meaningful non-work activities in integrated community settings for the period of time desired by the individual?  
 Yes  No
  
4. Individuals have their own bedrooms or share a room with a roommate of choice.
  - a. Do you give individuals a choice of a roommate?  
 Yes  No

## Residential Settings Self Study

- b. Do individuals talk about their roommate(s) in a positive manner?  
Yes No
  - c. Do individuals express a desire to remain in a room with their roommate?  
Yes No
  - d. Do married couples share or not share a room by choice?  
Yes No
  - e. Do individual know how they can request a roommate change?  
Yes No
5. Individuals choose and control a schedule that meets their wishes in accordance with a person-centered plan.
- a. Do you make clear to individuals they are not required to adhere to a set schedule for waking, bathing, eating, exercising, activities, etc.?  
Yes No
  - b. Do individual's schedules vary from others in the same setting?  
Yes No
  - c. Do individuals have access to such things as a television, radio, and leisure activities that interest them and can they schedule such activities at their convenience?  
Yes No
6. Individuals control their personal resources.
- a. Do individuals have a checking or savings account or other means to control their funds?  
Yes No
  - b. Do individual have access to their funds?  
Yes No
  - c. Do you make clear to individuals they are not required to sign over their paychecks to the provider?  
Yes No
7. Individuals choose when and what to eat.
- a. Do individuals have a meal at the time and place of their choosing?  
Yes No
  - b. Can individuals request an alternative meal if desired?  
Yes No
  - c. Are snacks accessible and available anytime?  
Yes No
  - d. Does the dining area afford dignity to the diners and are individuals not required to wear bibs or use disposable cutlery, plates and cups?  
Yes No

## Residential Settings Self Study

8. Individuals choose with whom to eat or to eat alone.
  - a. Are individuals required to sit at an assigned seat in a dining area?  
 Yes  No
  - b. Do individuals converse with others during meal times?  
 Yes  No
  - c. Do individuals have the choice to eat privately?  
 Yes  No
  
9. Individual choices are incorporated into the services and supports received.
  - a. Does staff ask individuals about their needs and preferences?  
 Yes  No
  - b. Do individuals know how to make a service request?  
 Yes  No
  - c. Do individuals express satisfaction with the services being received?  
 Yes  No
  - d. Do you accommodate requests for services and supports?  
 Yes  No
  - e. Do you facilitate choice in a manner that leaves individuals feeling empowered to make decisions?  
 Yes  No
  
10. Individuals choose from whom they receive services and supports.
  - a. Can individuals identify other providers who render the services they receive?  
 Yes  No
  - b. Do individuals express satisfaction with the provider selected or have they asked for a meeting to discuss a change?  
 Yes  No
  - c. Do individuals know how and to whom to make a request for a new provider?  
 Yes  No
  
11. Individuals have access to make private telephone calls/text/email at the individual's preference and convenience.
  - a. Do individuals have a private cell phone, computer or other personal communication device or have access to a telephone or other technology device to use for personal communication in private at any time?  
 Yes  No
  - b. Is the telephone or other technology device in a location that has space around it to ensure privacy?  
 Yes  No
  - c. Do individuals' rooms have a telephone jack, WI-FI or ETHERNET jack?

## Residential Settings Self Study

Yes  No

12. Individuals are free from coercion.

a. Is information about filing a complaint posted in an obvious location and in an understandable format?

Yes  No

b. Are individuals' comfortable discussing concerns?

Yes  No

c. Do individuals know the person to contact or the process to make an anonymous complaint?

Yes  No

d. Can individuals file an anonymous complaint?

Yes  No

e. Do individuals in the setting have different haircut/hairstyle and hair color?

Yes  No

13. Individuals, or a person chosen by the individual, have an active role in the development and update of the individual's person-centered plan.

a. Do individuals know how to schedule Person-Centered Planning meetings?

Yes  No

b. Can individuals explain the process to develop and update their plan?

Yes  No

c. Were individuals present during the last planning meeting?

Yes  No

d. Do you make the planning meeting occur at a time and place convenient for individuals to attend?

Yes  No

14. The setting does not isolate individuals from individuals in the broader community not receiving Medicaid HCBS.

a. Do individuals receiving HCBS live in a different area of the setting separate from individuals not receiving Medicaid HCBS?

Yes  No

b. Is the setting in the community among other private residences, retail businesses?

Yes  No

c. Is the community traffic pattern consistent around the setting (e.g. individuals do not cross the street when passing to avoid the setting)?

Yes  No

d. Do individuals on the street greet/acknowledge individuals receiving services when they encounter them?

Yes  No

## Residential Settings Self Study

- e. Are visitors present?  
Yes No
  - f. Are visitors restricted to specified visiting hours?  
Yes No
  - g. Are visiting hours posted?  
Yes No
  - h. Is there evidence that visitors have been present at regular frequencies?  
Yes No
  - i. Are there restricted visitor's meeting area?  
Yes No
15. Facility protocols or practices do not limit individuals' choices.
- a. Do your protocols or practices prohibit individuals' access to food at any time?  
Yes No
  - b. Do your protocols or practices require restrictions such as posted visiting hours or schedules?  
Yes No
  - c. Are individuals prohibited from engaging in legal activities?  
Yes No
16. The setting is an environment that supports individual comfort, independence and preferences.
- a. Do you make sure individuals have full access to typical facilities in a home such as a kitchen with cooking facilities, dining area, laundry, and comfortable seating in the shared areas?  
Yes No
  - b. Do you make sure all communication (written and oral) is conducted in a language that the individual understands?  
Yes No
  - c. Do you provide assistance in private, as appropriate, when needed?  
Yes No
17. Individuals have unrestricted access in the setting.
- a. Do you have gates, Velcro strips, locked doors, or other barriers preventing individuals' entrance to or exit from certain areas of the setting?  
Yes No
  - b. Do you make sure individuals receiving Medicaid Home and Community-Based services facilitated in accessing amenities such as a pool or gym used by others on-site?  
Yes No

## Residential Settings Self Study

- c. Do you make sure the setting is physically accessible and there are no obstructions such as steps, lips in a doorway, narrow hallways, etc., limiting individuals' mobility in the setting or if they are present are there environmental adaptations such as a stair lift or elevator to ameliorate the obstruction?  
 Yes  No
18. The physical environment meets the needs of those individuals who require supports.
- a. Do you provide needed supports to individuals to assist them to move about the setting as they choose, such as grab bars, seats in the bathroom, ramps for wheel chairs, viable exits for emergencies, etc.?  
 Yes  No
- b. Do you make sure appliances are accessible to individuals (e.g. the washer/dryer are front loading for individuals in wheelchairs)?  
 Yes  No
- c. Do you make sure tables and chairs are at a convenient height and location so that individuals can access and use the furniture comfortably?  
 Yes  No
19. Individuals have full access to the community.
- a. Do individuals come and go at will?  
 Yes  No
- b. Do you make sure individuals can move about inside and outside the setting as opposed to sitting by the front door?  
 Yes  No
- c. Is there a curfew or other requirement for a scheduled return to the setting?  
 Yes  No
- d. Do individuals in the setting have access to public transportation?  
 Yes  No
- e. Are there bus stops nearby or are taxis available in the area?  
 Yes  No
- f. Do you make sure a van is available to transport individuals to appointments, shopping, etc.?  
 Yes  No
- g. Do you make sure bus and other public transportation schedules and telephone numbers are posted in a convenient location?  
 Yes  No
- h. Do you facilitate training in the use of public transportation?  
 Yes  No
- i. Do you make sure other resources are provided for individuals to access the broader community where public transportation is limited?  
 Yes  No



## Residential Settings Self Study

20. Individual's rights to dignity and privacy are respected.
- Do you keep health information about individuals private?  
 Yes  No
  - Do you post schedules of individuals for PT, OT, medications, restricted diet, etc., in a general open area for all to view?  
 Yes  No
  - Do you make sure individuals, who need assistance with grooming, are groomed as they desire?  
 Yes  No
  - Do you make sure individuals' nails trimmed and clean?  
 Yes  No
21. Individuals who need assistance to dress are dressed in their own clothes appropriate to the time of day and individual preferences.
- Do individuals wear their bathrobes all day long?  
 Yes  No
  - Do you make sure individuals are dressed in clothes that fit, are clean, and are appropriate for the time of day, weather, and preferences?  
 Yes  No
22. Staff communicates with individuals in a dignified manner.
- Do individuals greet and chat with staff?  
 Yes  No
  - Do staff converse with individuals in the setting while providing assistance and during the regular course of daily activities?  
 Yes  No
  - Does staff talk to other staff about an individual as if the individual was not present or within earshot of other persons living in the setting?  
 Yes  No
  - Does staff address individuals in the manner in which the person would like to be addressed as opposed to routinely addressing individuals as 'hon' or 'sweetie'?  
 Yes  No

Characteristics that are expected to be present in all provider owned or controlled home and community-based settings and associated traits that individuals in those settings might experience.

- Modifications of the setting requirements for individuals are supported by an assessed need and justified in the person-centered plan.
  - Does documentation note if positive interventions and supports were used prior to any plan modifications?

## Residential Settings Self Study

- Yes  No
- b. Do you document initial less intrusive methods of meeting the need that were tried?  
 Yes  No
- c. Does the plan includes a description of the condition that is directly proportional to the assessed need, data to support ongoing effectiveness of the intervention, time limits for periodic reviews to determine the ongoing necessity of the modification, informed individual consent, and assurance that the intervention will not cause the individual harm?  
 Yes  No
2. Individuals have privacy in their sleeping space and toileting facility.
- a. Do you make sure furniture is arranged as individuals prefer and does the arrangement assure privacy and comfort?  
 Yes  No
- b. Can individuals close and lock the bedroom door?  
 Yes  No
- c. Do staff or other residents always knock and receive permission prior to entering a bedroom or bathroom?  
 Yes  No
3. Individuals have privacy in their living space.
- a. Do you have cameras present in the setting?  
 Yes  No
- b. Do you make sure the furniture is arranged as individuals prefer to assure privacy and comfort?  
 Yes  No
- c. Do staff or other residents always knock and receive permission prior to entering an individual's living space?  
 Yes  No
- d. Does staff only use a key to enter a living area or privacy space under limited circumstances agreed upon with individuals?  
 Yes  No
4. Individuals have comfortable places for private visits with family and friends.
- a. Do you make sure the furniture is arranged to support small group conversations?  
 Yes  No

## Residential Settings Self Study

5. Individuals furnish and decorate their sleeping and or living units in the way that suits them.
  - a. Are individuals' personal items, such as pictures, books, and memorabilia present and arranged as the individual desires?  
 Yes  No
  - b. Do the furniture, linens, and other household items reflect individual's personal choices?  
 Yes  No
  - c. Do individuals' living areas reflect their interests and hobbies?  
 Yes  No
  
6. There is a legally enforceable agreement for the unit or dwelling where individual resides.
  - a. Do individuals have a lease or, for settings in which landlord tenant laws do not apply, a written residency agreement?  
 Yes  No
  - b. Do individuals know their rights regarding housing and when they could be required to relocate?  
 Yes  No
  
7. Individuals are protected from eviction and afforded appeal rights in the same manner as all persons in the State who are not receiving Medicaid HCBS.
  - a. Do individuals know their rights regarding housing and when they could be required to relocate?  
 Yes  No
  - b. Do individuals know how to relocate and request new housing?  
 Yes  No
  - c. Does the written agreement include language that provides protections to address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant laws?  
 Yes  No