



The Home and Community Based Settings Final Rule

Utah's Progress on the State
Transition Plan

The Final Rule: HCBS Setting Requirements



Effective date of rule: March 17, 2014

States must demonstrate compliance by March 17, 2022

The final rule establishes:

- Mandatory requirements for the qualities of home and community-based settings including discretion for the Secretary to determine other appropriate qualities
- Settings that are not home and community-based
- Settings presumed not to be home and community-based
- State compliance and transition requirements

HCBS Setting Requirements

The Home and Community-Based setting:

- Is integrated in and supports access to the greater community
- Provides opportunities to seek employment and work in competitive integrated settings, engage in community life, and control personal resources
- Ensures the individual receives services in the community to the same degree of access as individuals not receiving Medicaid home and community-based services

HCBS Setting Requirements

- Ensures an individual's rights of privacy, dignity, respect, and freedom from coercion and restraint
- Optimizes individual initiative, autonomy, and independence in making life choices
- Facilitates individual choice regarding services and supports, and who provides them

HCBS Requirements for Provider-Owned or Controlled Residential Settings



Additional requirements:

- Specific unit/dwelling is owned, rented, or occupied under legally enforceable agreement
- Same responsibilities/protections from eviction as all tenants under landlord tenant law of state, county, city or other designated entity
- If tenant laws do not apply, state ensures lease, residency agreement or other written agreement is in place providing protections to address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law

HCBS Requirements for Provider-Owned or Controlled Residential Settings



- Each individual has privacy in their sleeping or living unit
- Units have lockable entrance doors, with the individual and appropriate staff having keys to doors as needed
- Individuals sharing units have a choice of roommates
- Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement
- Individuals have freedom and support to control their schedules and activities and have access to food any time
- Individuals may have visitors at any time
- Setting is physically accessible to the individual

HCBS Setting Requirements



Modifications of the additional requirements must be:

- Supported by specific assessed need
- Justified in the person-centered service plan
- Documented in the person-centered service plan which includes:
 - Specific individualized assessed need
 - Prior interventions and supports including less intrusive methods
 - Description of condition proportionate to assessed need
 - Ongoing data measuring effectiveness of modification
 - Established time limits for periodic review of modifications
 - Individual's informed consent
 - Assurance that interventions and supports will not cause harm

Settings that are NOT HCBS or Presumed NOT HCBS



Settings that are NOT HCBS:

- Nursing Facilities
- Institution for Mental Diseases (IMD)
- Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID)
- Hospital

Settings Presumed NOT to be HCBS:

- Settings in a publicly or privately-owned facility providing inpatient treatment
- Settings on grounds of, or adjacent to, a public institution
- Settings with the effect of isolating individuals from the broader community of individuals not receiving HCBS

Utah's Transition Progress



Utah was required to submit a plan within one year of the effective date of the final rule; The Plan included elements, timelines, and deliverables as required by the Centers for Medicare and Medicaid Services

Transition Plan Progress:

- Preliminary Categorization of Sites
- Provider Self-Assessments
- State Review and Validation Site Assessments
- Systemic and Site Remediation

Site Assessment and Remediation Processes



Action Item	Timeline
State returns findings from Self-Assessments to providers	1/31/2018
Validation site visits by the State	2/28/2018
Providers submit remediation plans to the State	60 days
Remediation feedback provided by the State	60 days
Provider rebuttal option	30 days
State rebuttal response	30 days
Final remediation plan required	12/1/2018
Heightened scrutiny cases submitted to CMS throughout the assessment process as needed.	As needed
Full compliance required by all HCBS providers	10/01/2020

State Self-Assessment and Remediation Plan

The purpose of the State-Assessment Report (document 2) is to summarize the review of the self-assessments submitted by your agency.

- If Overall Compliance is “Yes” there is no remediation plan or further action required at this time
- If Overall Compliance is “Partial” the submission of a Remediation Plan is required (document 3)



Document 1



Document 2
Example



Document 2
Example 2



Document 3
Example

Utah Settings Transition Resources



- HCBS Transition Home Page

<http://health.utah.gov/ltc/hcbstransition/>

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Questions and Answers



This time has been reserved for questions related to the HCBS Settings Rule and Remediation Plan.

Thank you for your participation in this presentation.