

How to Work Towards HCBS Settings Rule Compliance during COVID-19

In light of impacts from COVID-19, the Centers for Medicare & Medicaid Services (CMS) will allow states an additional year, through March 17, 2023 (previously 2022), to complete implementation of activities required to demonstrate compliance with the Home and Community-Based Services (HCBS) Settings Rule criteria. We acknowledge that COVID-19 has caused some unexpected challenges and understand some additional support and guidance may be needed. While service providers have some additional time to come into compliance, it is crucial that they do not stop their efforts towards transformation due to COVID-19.

Although individuals are accessing their communities differently than before the pandemic, providers can still make changes and significant progress towards compliance. This document is intended to give providers some ideas as to how they can continue to work on remediation during COVID-19.

- ***Make any necessary alterations to the physical setting.*** For example, install missing doors or door locks in accordance with the [Locks and the HCBS Settings Rule flyer](#). You may want to check in with individuals to ensure that the setting is physically accessible to them, and remediate any accessibility issues as-needed.
- ***Review and adjust your written policies, procedures and documentation to align with the Settings Rule.*** CMS requires that providers have “evidence of compliance” they can submit to support what they do in practice. If you do not have any written policies or procedures that address the requirements of the Settings Rule, now is the time to put your processes down on paper. Consider how your procedures support community integration and inclusion for individuals with disabilities. For example, write down your process for creating the weekly or monthly schedule for individuals including how you gather input from individuals regarding what activities they would like to do.
- ***Train your staff on the requirements of the Settings Rule.*** If you have not already done so, ensure that new and existing staff are familiar with the Settings Rule and what it means in terms of how they support individuals. You can create your own training or use the training and documents available on the [HCBS Settings Transition website](#). Proper training ensures that staff understand what changes need to occur, and opens the door for innovation and creative ideas to support compliance.

- ***Review individual's rights restrictions/modifications and their human rights documentation.*** Ensure that individual's rights restrictions are justified by a specific assessed need and justified within their human rights documentation. Additionally, ensure that individuals in the setting can circumvent restrictions that do not apply to them. For example, if an individual has a restriction that requires the refrigerator to be locked, their roommate should be given a code or key to the lock so that they are able to access the refrigerator. For more information, click on the following links: [Restrictions and Modifications Flyer](#), [Restrictions and Modifications Examples](#)
- ***Address any barriers to communication that may be isolating for individuals and work on building and strengthening natural supports and relationships.*** For example, is there a common phone or computer that individuals in your program could use to communicate with friends and family? Could you help individuals save for, or request their own devices, such as tablets, from the Division of Services for People with Disabilities (DSPD)? Are there sufficient electrical outlets for individuals to plug in and charge their own personal devices if they have them? Are individuals set up on your WiFi network? How can you ensure that individuals have what they need to communicate with their family and friends beyond COVID-19?

Allow, through individualized planning, the flexibility to adjust with the community during this pandemic.

- ***Focus on personal skill-building with individuals, especially in regards to how they can use technology to access their community.*** Staff can assist individuals in learning how to use virtual meeting platforms like Google Meet, Zoom, etc. or using social media like Facebook, Instagram, etc. Individuals can use phone apps to shop for groceries or get their favorite meals delivered to them. For individuals who have an interest in advocacy or meeting new friends, you can support them in applying for and joining a self-advocacy group or workgroup through the [Utah Developmental Disabilities Council \(UDDC\)](#) or [DSPD](#).
- ***Assist individuals with attending virtual events or taking online classes to explore their interests and remain engaged with their community.*** [Now Playing Utah](#) and [ABC4](#) both have calendars on their websites that are frequently updated with a list of events and classes taking place in Utah. [Statewide Independent Living Centers \(ILCs\)](#) offer different classes and services which enhance the independence of people with disabilities. Many gyms and fitness centers have been hosting virtual classes so that individuals can continue to participate in their favorite classes.
- ***Focus on individualized services and schedules with individuals.*** Review your process to obtain input and feedback from individuals in regards to their daily, weekly, and monthly calendars/schedules. How do you ensure that each individual's needs and desires are being met within the confines of COVID-19 restrictions?

- ***Review and adjust current person-centered planning processes to ensure individuals are leading their process and meeting.*** Staff should assist individuals to prepare for their PCSP meeting, including ensuring that the meeting is at a time and place of their choice, they are able to invite members of their team they want to participate, and they are prepared to discuss what is important to them.
- ***Assist individuals to utilize the same methods others in the community access to learn about information, options and employment opportunities.*** Help an individual participate in a virtual job tour, speak with a Vocational Rehabilitation Counselor over a virtual meeting application, experience a live virtual mock interview, or access job-focused videos through YouTube or another vocational training website like careeronestop.org. Some individuals who may not be working right now, want to advance in their current job or have a desire to look for new employment. If this is the case, staff can spend time to start or continue a thorough planning exercise with individuals about Competitive Integrated Employment. This could include a guided employment conversation, seeking for answers to open-ended questions and agreement about what should happen next. After any employment conversation, staff should identify: an interest-driven employment skill to maintain or develop; possible activities to gain first-hand work experience in a community setting; or connections to more information and options about a vocational interest.
- ***Plan for transportation changes that will need to occur.*** Develop a transportation plan to ensure small groups of individuals are able to integrate into their community. Staff can start talking to individuals on how they can more independently access their community and develop a training and implementation plan for individuals.
- ***Research and develop your plans to come into compliance now as much as you can so as soon as restrictions are lifted, you are ready to implement.*** Don't wait until restrictions are lifted to determine how you are going to move forward.

Request technical assistance from the Department of Health (DOH). If you are having difficulties implementing or understanding certain parts of the Settings Rule, please email HCBSSettings@utah.gov to request technical assistance.

Submit any questions to HCBSSettings@utah.gov

Find additional resources here:
<https://medicaid.utah.gov/ltc/hcbstransition/>

