



## Home and Community-Based Settings Rule

### Quick Reference

#### FEDERAL REQUIREMENTS

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**Settings that are home and community-based must be integrated in and support full access of individuals receiving Medicaid HCBS to the greater community. This includes opportunities to:**

- Seek employment and work in competitive integrated settings.
- Engage in community life.
- Control personal resources.
- Receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.

**The Agency for Health Care Administration (Agency) must ensure home and community-based settings:**

- Are chosen by the individual from among setting options including non-disability specific settings (as well as an independent setting) and an option for a private unit in a residential setting.
  - The individual's choice must be identified/included in the person-centered service plan; and
  - Must be based on the individual's needs, preferences, and, for residential settings, resources available for room and board.
- Ensure an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.
- 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.
- Facilitates individual choice regarding services and supports, and who provides them.

**Residential Settings are also required have these qualities:**

- Have a written lease or agreement with individual residents that gives them tenant rights and protection against eviction.
- Ensure resident privacy in their sleeping or living unit. Residents must have:
  - Units with entrance doors that are lockable by the individual, with only appropriate staff having keys to doors;
  - Choice of roommate; and
  - Freedom to decorate and furnish their sleeping or living areas.

- Ensure individuals have the freedom and support to control their own schedules and activities, and have access to food at any time.
- Allow individuals are able to have visitors of their choosing at any time.
- Ensure the setting is physically accessible to the individual.

**Any modification setting requirements must be supported by a specific assessed need and justified in the person-centered service plan. The following requirements must be documented in the person-centered service plan:**

- Identify a specific and individualized assessed need.
- Document the positive interventions and supports used prior to any modifications to the person-centered service plan.
- 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 is 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 are:**

- Nursing facilities.
- Institutions for mental diseases.
- Intermediate care facilities for the intellectually disabled.
- Hospitals.
- Settings with institutional qualities as determined by the Secretary of the US Department of Health and Human Services.

**Settings that are presumed to have qualities of an institution:**

- Any setting that is located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment.
- Any setting that is located in a building on the grounds of, or immediately adjacent to, a public institution.
- Any other setting that has the effect of isolating individuals receiving Medicaid HCBS from the broader community of individuals not receiving Medicaid HCBS.