

## NEW PROVIDER HCBS COMPLIANCE AGREEMENT

All providers delivering Home and Community Based Services (HCBS) **MUST MAINTAIN FULL COMPLIANCE** with the 2014 HCBS Settings Rule. Providers **MUST** ensure they have the capacity to deliver services that meet these federal regulations. Examples of capacity may include, but is not limited to, transportation, appropriate staffing ratios, supports for employment outcomes, respect and support for choices of people supported, etc. Below is a brief overview of compliance requirements. For more information about the HCBS Settings Rule visit the CMS website at:

<https://www.medicaid.gov/medicaid/hcbs/guidance/index.html>

Your initials by each statement below indicates you have reviewed and agree to provide services that comply with the HCBS Settings Rule.

<b>Initials</b>	<b>Regulatory Requirements for Home and Community-Based Services Checklist:</b>
-----------------	---

For 1915(c) home and community-based waivers and 1915(i) State plan home and community-based services, home and community-based settings must have all of the following qualities defined at §441.301(c)(4) and §441.710 respectively, and such other qualities as the Secretary determines to be appropriate, based on the needs of the individual as indicated in their person-centered service plan:

	The setting ( <i>where supports/services are delivered</i> ) is integrated and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community to the same degree of access as individuals not receiving Medicaid HCBS.
	The setting is selected by the individual from setting options including non-disability specific settings, and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and based on the individual's needs, preferences, and for residential settings, resources available for room and board. ( <i>An individual 'chooses' the setting they need and/or desire to receive supports 'they' need and/or desire for 'their' good life through HCBS waiver services.</i> )
	Ensures 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.

In a provider-owned or controlled residential setting, in addition to the qualities specified above, the following additional conditions must be met:

	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. The individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity. For settings in which landlord tenant laws do not apply, the State must ensure a lease, residency agreement, or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.
	Each individual has privacy in their sleeping or living unit:
	<ul style="list-style-type: none"> <li>• Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors. (<i>If more than one bedroom, each bedroom should be considered a unit and the 'tenant' should have a key to their lockable door</i>)</li> <li>• Individuals sharing units have a choice of roommates in that setting.</li> <li>• Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.</li> <li>• Individuals have the freedom and support to control their own schedules and activities...</li> <li>• Individuals... have access to food at any time.</li> <li>• Individuals are able to have visitors of their choosing at any time.</li> <li>• The setting is physically accessible to the individual.</li> </ul>

**Any modification of the additional conditions specified in items 1 through 4 above, 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:**

	<ul style="list-style-type: none"> <li>Identify a specific and individualized assessed need <i>(to make the change)</i>.</li> </ul>
	<ul style="list-style-type: none"> <li>Document the positive interventions and supports used prior to any modifications to the person-centered service plan.</li> </ul>
	<ul style="list-style-type: none"> <li>Document less intrusive methods of meeting the need that have been tried but did not work.</li> </ul>
	<ul style="list-style-type: none"> <li>Include a clear description of the condition directly proportionate to the specific assessed need.</li> </ul>
	<ul style="list-style-type: none"> <li>Include regular collection and review of data to measure the ongoing effectiveness of the modification.</li> </ul>
	<ul style="list-style-type: none"> <li>Include established time limits for periodic reviews to determine if the modification is still necessary or can be terminated.</li> </ul>
	<ul style="list-style-type: none"> <li>Include the informed consent of the individual.</li> </ul>
	<ul style="list-style-type: none"> <li>Include an assurance that interventions and supports will cause no harm to the individual</li> </ul>

**Settings That are Not Home and Community-Based:**

**Settings that are Presumed to have the Qualities of an Institution:**

For 1915(c) home and community-based waivers, section 441.301(c)(5)(v) specifies that the following settings are presumed to have the qualities of an institution:

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

My initials and signature below denote I have read and understand as a provider, I must maintain full compliance with the CMS HCBS Setting Rules. I further understand **CMS requires 100% compliance with the HCBS Settings Rule** in order to receive funding for HCBS waiver services and therefore, **funding for the HCBS waiver services that I may be approved to provide will cease if I am not 100% compliant with the HCBS Settings Rules.**

Initials	Printed Name	Signature	Date