

Home & Community Based Services (HCBS) Final Rule What Does It Mean for Me?



FOR PEOPLE RECEIVING SERVICES:

In January 2014, the Centers for Medicare and Medicaid Services (CMS) announced some changes to their rules. CMS is the federal agency that must approve of the Medicaid waiver program that provides Home and Community Based Services (HCBS) to people with intellectual disabilities in California. CMS pays for about 50% of the cost of services provided in these waiver programs. To keep receiving these federal funds, California has to follow their rules. All HCBS services must meet the requirements in the settings rule.

Changes must begin to be made now to be in full compliance by March 2019.

HCBS Final Rule Applies to:

- Residential and non-residential settings, including licensed homes
- Day programs
- Employment options, and
- Other independent living situations

HCBS Final Rule Does Not Include:

- Nursing homes
- Hospitals
- Institutions for mental diseases (IMD)
- Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID)

What is the Goal of the HCBS Final Rule?

- To have full access to participate in your community.
- To make sure you or your family member have the opportunity to work.
- To ensure that your preferences are honored and your rights are protected.

How Will Your Services Change?

If you are currently working at a sheltered workshop, also known as a Work Activity Program, your services may look different. We want to make sure you have the choice to work in your community, where you can earn the same wages as other community members.

If you currently live in a residential facility

Changes may include:

- Choice of roommates.
- Privacy in your room, including a lock on your door.
- Control of your schedule and activities.
- Visitors of your choosing, at any time.
- Freedom to furnish and decorate your room.
- A lease or other legal agreement, protecting you from eviction.

Person-Centered Plan (PCP) and the Final Rule

The CMS Final Rule establishes guidelines for the PCP. These guidelines include:

- PCP process must be directed by you and may include:
 - A representative you have chosen
 - Others chosen by you, who can contribute to the process.
- Provides necessary information and support to you, to ensure that you direct the process.
- Integrates your preferences
- Reflects cultural considerations
- Includes strategies for solving conflict/disagreements
- Provides method to request updates

FOR PROVIDERS:

How will your service as a provider change?

If you are a service provider who provides site-based services in a facility (building) that you own and operate, we have to make sure these services do not isolate individuals from the community where they live. The new rule says that day services paid for by Medicaid must provide opportunities to participate in the community at large. You may need to modify where and how your service is delivered. Policies, and program designs may need to be changed and training to your staff may be necessary to assure their understanding of the new expectations.

Qualities that Settings must have to be in Compliance

Settings must have all of the following qualities based on the needs of individuals as indicated in the Person Centered Plans (PCP):

- The setting is integrated and supports full access of individuals to the greater community, including: opportunities to seek employment and work in competitive integrated settings; engage in community life; and control personal resources.
- The setting is selected by the individual from among setting options including non-disability specific settings and an option is provided for a private unit in a residential setting. Setting options are documented in the PCP and are based on the individual's needs and preferences. For residential settings, options are selected from available resources.
- Ensures an individual's right of privacy, dignity and respect, and freedom from coercion and restraint.
- Optimizes individual autonomy, and independence in making life choices.
- Facilitates individual choice regarding services and supports.

How Do These Rules Affect Provider-Owned or Operated Licensed Residential Settings?

The rules do not prohibit provider-owned or operated settings, such as licensed residential facilities or group homes. However, in addition to meeting the general requirements of the rules regarding community based settings, these residential settings must meet the following additional conditions:

- A lease or other legally enforceable agreement to protect from eviction
- Privacy in their unit including entrances lockable by the individual (staff may have keys as needed)
- Choice of roommates
- Freedom to furnish and decorate their unit
- Control of their schedule and activities
- Access to food at any time
- Physical accessibility for the individual
- Visitors at any time

If any of these requirements are limited, the reasons must be documented in the PCP, be based on a specific and individualized need, include the informed consent of the individual, and have an established time limit for the modification, including a periodic review.

How to Get Involved and Stay Updated

Visit the Department of Health Care Services website for California's transition plan:

<http://www.dhcs.ca.gov/services/ltc/Pages/HCBSStatewideTransitionPlan.aspx>

<http://www.dds.ca.gov/HCBS/>

<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>

<http://www.hcbsadvocacy.org>