

You're Invited



**Tri-Counties  
Regional Center**  
SAN LUIS OBISPO • SANTA BARBARA • VENTURA

***Come Join Us!***

## **HCBS FINAL RULE TASK FORCE MEETINGS**

- ***There are new Federal Rules about how we provide services and receive funding called the Home and Community Based Services (HCBS) Final Rule.***
- ***TCRC and the Provider community have created an HCBS Final Rule Task Force and we invite you to join us.***
- ***The HCBS Final Rule Task Force is a collaborative effort to ensure our community succeeds in compliance to the Centers for Medicare and Medicaid Services (CMS).***
- ***CMS pays for approximately 50% of the cost of services provided in the form of waiver programs (including regional center funded residential and day services).***
- ***Come join our collective effort to ensure that valuable information is shared with everyone this affects.***
- ***Help us to ensure we continue receiving these federal funds, all HCBS services must meet the requirements of the HCBS Final Rule.***

### **The HCBS Final Rule Applies to:**

- Residential services including licensed homes (excluding ICFs)
- Supported/Independent Living
- All Day Program and Employment Services

### **The HCBS is designed to:**

- Promote autonomy and choice using Person Centered Planning
- Promote community integration
- Promote options for employment

## **HCBS Final Rule Task Force**

**Meetings are held on the first Thursday of the month**

**When: 9:15–10:00am** (excluding January, April, August, & December)  
Just prior to the VENDOR ADVISORY COMMITTEE (VAC) Meeting

**Where: TCRC Main Conf. rm - 520 E. Montecito St., Santa Barb.  
OR - Conference Call: 877-262-0913 / Conf. ID: 5802721#**

Please RSVP to Cyna Naea 805-884-7290 or [cnaea@tri-counties.org](mailto:cnaea@tri-counties.org)

# 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.

### 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

### 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

### **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

### **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>

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ISSUE 35 Spring 2015

# The Riot!

## Now We Can!





Riot Cartoon by John Fenley

**Home and Community-Based Settings and Services  
Provider Self-Assessment  
Residential**

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**Questions and Guidance**

In January 2014, the Centers for Medicare and Medicaid Services (CMS) announced a requirement for states to review and evaluate current Home and Community Based Services (HCBS) settings, including non-residential and residential settings, and to demonstrate compliance with the federal HCBS setting rules that went into effect March 17, 2014. These rules were developed to ensure that individuals receiving long-term services and supports through HCBS programs under Medicaid waiver and State Plan authorities have full access to the benefits of community living and the opportunity to receive services in the most integrated setting appropriate. The following self-assessment is designed to measure providers' current level of compliance with these Federal HCBS setting rules and provide a framework for assisting those providers with the necessary steps to compliance. It is acceptable for providers to not currently be in compliance with all of the requirements. There will be time to develop transition plans to help bring providers into compliance. Additionally, a provider may not be solely responsible for the activities associated with each question, as some of the questions may be a shared responsibility with the regional center. All regional center providers are required to complete this self-assessment.

**INSTRUCTIONS:**

1. Providers must complete a self-assessment for each service setting, each vendored program, which they own, co-own, and/or operate.
2. The response column must be completed with either a YES or NO answer to each question. It is acceptable to not currently be in compliance with these requirements, as there will be time to develop a transition plan.
  - A. **For every YES response:** Providers must identify documentation that supports a yes response as evidence. Identified documentation does not need to be submitted with this assessment, but should be kept on-site and accessible along with a copy of the completed assessment form.

Documentation that will be deemed acceptable evidence to demonstrate compliance includes, but is not limited to:

    - Advisory Council/ Committee Assessment
    - Provider Policies/ Procedures
    - Program Design
    - Client Handbook
    - Staff training curriculum
    - Training Schedules

**Home and Community-Based Settings and Services  
Provider Self-Assessment  
Residential**

**B. For every NO response:** Providers must either submit evidence demonstrating how a setting is not in conflict with the HCBS setting rule; or include a proposed transition plan or remedies, as well as a timeline for meeting compliance. **Please note there are special instructions for 3g, 3h, and 3i.**

***Please Note: Questions should be understood to refer to ALL individuals served and should be considered in the context of each individual’s assessed choices, preferences, and needs as indicated in their individual program plan.***

Date(s) of Assessment: [Click or tap here to enter text.](#)

Completed by: [Click or tap here to enter text.](#)

Vendor Name, address, contact: [Click or tap here to enter text.](#)

Vendor Number: [Click or tap here to enter text.](#)

Regional Center\*: [Click or tap here to enter text.](#)

Service Type and Code: [Click or tap here to enter text.](#)

\*Are you vendored with more than one regional center? If yes, please list: [Click or tap here to enter text.](#)

General Questions	Response
1. Is the HCB setting a residential or non-residential setting?	Residential <input type="checkbox"/> Non-Residential <input type="checkbox"/>  Note: if this is a non-residential setting do not complete this form, please obtain the Non-Residential Setting form.
2. Please provide a brief description of the home. What is the capacity of the home?	Capacity:  Number of Individuals Served:  Other description if applicable (optional):
3. Please briefly describe the services/supports provided by the home. Does the home provide both on-site and off-site services?	Description of Services/Supports:  On-site Services <input type="checkbox"/> Off-site Services <input type="checkbox"/> Both <input type="checkbox"/>
4. Please briefly describe the community in which the home is located (e.g., the home is located in a retirement community in which the majority of residents own their	Description of Community:  Residential Community <input type="checkbox"/> Business Community <input type="checkbox"/> Industrial Community <input type="checkbox"/>

**Home and Community-Based Settings and Services  
Provider Self-Assessment  
Residential**

General Questions	Response
own homes). Is the larger community primarily a residential community, a business community or an industrial community?	
5. Is the setting located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment, or in a building located on the grounds of, or immediately adjacent to, a public institution?	Yes <input type="checkbox"/> No <input type="checkbox"/> Please Describe:
6. Please describe the process within the home for requesting a modification of any of the federal requirements for an individual resident (pursuant to the process described in the Federal regulations); such as the assessed need for restriction of a particular resident's egress from the home.	Process for Modification Request:  Note: modification requests MUST include the person-centered service planning process and MUST be directed at the individual person, not to a group of persons.

**Federal Requirement Category 1:**

***The setting is integrated in and supports full access 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 HCB Services.***

Question	Response
1b. Does the individual participate in outings and activities in the community as part of his or her plan for services?	Yes <input type="checkbox"/> No <input type="checkbox"/> If Yes response, indicate supporting document and page number, and briefly explain. If No response, please explain:

**Home and Community-Based Settings and Services  
Provider Self-Assessment  
Residential**

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Documentation and additional information, such as a providers transition plan and timeline, that demonstrates compliance under Federal Requirement Category 1 (optional):

<p><b>Federal Requirement Category 2:</b> <i>The setting is selected by the individual from among various 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 are based on the individual’s needs, preferences, and, for residential settings, resources available for room and board.</i></p>	
<b>Question</b>	<b>Response</b>
<p>2b. Does each individuals’ IPP document the different setting options that were considered prior to selecting this setting?</p> <p>Note: Responding “No” to this question does not mean the provider is out of compliance.</p>	<p>Yes <input type="checkbox"/> No</p> <p>If Yes response, indicate supporting document and page number, and briefly explain. If No response, please explain:</p>

Documentation and additional information, such as a providers transition plan and timeline, that demonstrates compliance under Federal Requirement Category 2 (optional):

<p><b>Federal Requirement Category 3:</b> <i>The setting ensures an individual’s rights of privacy, dignity, respect, and freedom from coercion and restraint.</i></p>	
<b>Question</b>	<b>Response</b>
<p>3d. Does the provider ensure individuals have privacy while using the bathroom and when assisted with personal care?</p>	<p>Yes <input type="checkbox"/> No</p> <p>If Yes response, indicate supporting document and page number, and briefly explain. If No response, please explain:</p>

Documentation and additional information, such as a providers transition plan and timeline, that demonstrates compliance under Federal Requirement Category 3 (optional):

**Home and Community-Based Settings and Services  
Provider Self-Assessment  
Residential**

**Federal Requirement Category 4:**

***The setting optimizes but does not regiment individual initiative, autonomy and independence in making life choices, including daily activities, physical environment and with whom to interact.***

Question	Response
4b. Does the provider structure their support so that the individual is able to interact with individuals they choose to interact with, both at program and in community settings?	Yes <input type="checkbox"/> No If Yes response, indicate supporting document and page number, and briefly explain. If No response, please explain:

Documentation and additional information, such as a providers transition plan and timeline, that demonstrates compliance under Federal Requirement Category 4 (optional):

**Federal Requirement Category 5:**

***The setting facilitates individual choice regarding services and supports, and who provides them.***

Question	Response
5a. Does the provider support individuals in choosing which staff provide their care to the extent that alternative staff are available?	Yes <input type="checkbox"/> No If Yes response, indicate supporting document and page number, and briefly explain. If No response, please explain:

Documentation and additional information, such as a providers transition plan and timeline, that demonstrates compliance under Federal Requirement Category 5 (optional):

**Home and Community-Based Settings and Services  
Provider Self-Assessment  
Residential**

**Federal Requirement Category 6:**

*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, and 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 that a lease, residency agreement or other form of written agreement will be in place for each participant and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.*

Question	Response
6a. As applicable, does each individual have a lease, residency agreement or other form of written residency agreement?	Yes <input type="checkbox"/> No If Yes response, indicate supporting document and page number, and briefly explain. If No response, please explain:
6b. Are individuals informed about how to relocate and request new housing?	Yes <input type="checkbox"/> No If Yes response, indicate supporting document and page number, and briefly explain. If No response, please explain:

Documentation and additional information, such as a providers transition plan and timeline, that demonstrates compliance under Federal Requirement Category 6 (optional):

**Federal Requirement Category 7:**

*Each individual has privacy in his/her sleeping or living unit:*

- 1. Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors as needed.**
- 2. Individuals sharing units have a choice of roommates in that setting.**
- 3. Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.**

Question	Response
7d. Do individuals have the ability to lock their bedroom doors when they choose?	Yes <input type="checkbox"/> No If Yes response, indicate supporting document and page number, and briefly explain. If No response, please explain:

**Home and Community-Based Settings and Services  
Provider Self-Assessment  
Residential**

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Documentation and additional information, such as a providers transition plan and timeline, that demonstrates compliance under Federal Requirement Category 7 (optional):

<b>Federal Requirement Category 8: <i>Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time.</i></b>	
<b>Question</b>	<b>Response</b>
8b. Does the home allow individuals to set their own daily schedules?	Yes <input type="checkbox"/> No If Yes response, indicate supporting document and page number, and briefly explain. If No response, please explain:
8c. Do individuals have full access to typical facilities in a home such as a kitchen, dining area, laundry, and comfortable seating in shared areas?	Yes <input type="checkbox"/> No If Yes response, indicate supporting document and page number, and briefly explain. If No response, please explain:

Documentation and additional information, such as a providers transition plan and timeline, that demonstrates compliance under Federal Requirement Category 8 (optional):

<b>Federal Requirement Category 9: <i>Individuals are able to have visitors of their choosing at any time.</i></b>	
<b>Question</b>	<b>Response</b>
9a. Are visitors welcome to visit the home at any time?	Yes <input type="checkbox"/> No If Yes response, indicate supporting document and page number, and briefly explain. If No response, please explain:

Documentation and additional information, such as a providers transition plan and timeline, that demonstrates compliance under Federal Requirement Category 9 (optional):

**Home and Community-Based Settings and Services  
Provider Self-Assessment  
Residential**

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**Federal Requirement Category 10:  
*The setting is physically accessible to the individual.***

Question	Response
10c. Are appliances and furniture accessible to every individual (e.g., the washer/dryer are front loading for individuals using wheelchairs)?	Yes <input type="checkbox"/> No If Yes response, indicate supporting document and page number, and briefly explain. If No response, please explain:

Documentation and additional information, such as a providers transition plan and timeline, that demonstrates compliance under Federal Requirement Category 10 (optional):

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**Home and Community-Based Settings and Services  
Provider Self-Assessment  
Non-Residential**

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**Questions and Guidance**

In January 2014, the Centers for Medicare and Medicaid Services (CMS) announced a requirement for states to review and evaluate current Home and Community Based Services (HCBS) settings, including non-residential and residential settings, and to demonstrate compliance with the federal HCBS setting rules that went into effect March 17, 2014. These rules were developed to ensure that individuals receiving long-term services and supports through HCBS programs under Medicaid waiver and State Plan authorities have full access to the benefits of community living and the opportunity to receive services in the most integrated setting appropriate. The following self-assessment is designed to measure providers' current level of compliance with these Federal HCBS setting rules and provide a framework for assisting those providers with the necessary steps to compliance. It is acceptable for providers to not currently be in compliance with all of the requirements. There will be time to develop transition plans to help bring providers into compliance. Additionally, a provider may not be solely responsible for the activities associated with each question, as some of the questions may be a shared responsibility with the regional center. All regional center providers are required to complete this self-assessment.

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  - A. **For every YES response:** Providers must identify documentation that supports a yes response as evidence. Identified documentation does not need to be submitted with this assessment, but should be kept on-site and accessible along with a copy of the completed assessment form. Documentation that will be deemed acceptable evidence to demonstrate compliance includes, but is not limited to:
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    - Provider Policies/ Procedures
    - Program Design
    - Client Handbook
    - Staff training curriculum
    - Training Schedules

**Home and Community-Based Settings and Services  
Provider Self-Assessment  
Non-Residential**

- B. For every NO response:** Providers must either submit evidence demonstrating how such a setting is not in conflict with the HCBS setting rule; or include a proposed transition plan or remedies, as well as a timeline for meeting compliance. **Please note there are special instructions for 3g, 3h, and 3i.**

***Please Note: Questions should be understood to refer to ALL individuals served and should be considered in the context of each individual's assessed choices, preferences, and needs as indicated in their individual program plan.***

Date(s) of Assessment: [Click or tap here to enter text.](#)

Completed by: [Click or tap here to enter text.](#)

Vendor Name, address, contact: [Click or tap here to enter text.](#)

Vendor Number: [Click or tap here to enter text.](#)

Regional Center\*: [Click or tap here to enter text.](#)

Service Type and Code: [Click or tap here to enter text.](#)

\*Are you vendored with more than one regional center? If yes, please list: [Click or tap here to enter text.](#)

General Questions	Response
1. Is the HCB setting a residential or non-residential setting?	Residential <input type="checkbox"/> Non-Residential <input type="checkbox"/>  Note: if this is a residential setting do not complete this form, please obtain the Residential Setting form.
2. Please provide a brief description of the HCB setting. What is the capacity of the setting?	Capacity:  Number of Individuals Served:  Other description if applicable (optional):
3. Please briefly describe the services/supports provided by the HCB setting. Does the setting provide both on-site and off-site services?	Description of Services/Supports: On-site Services <input type="checkbox"/> Off-site Services <input type="checkbox"/> Both <input type="checkbox"/>
4. Please briefly describe the community in which the HCB setting is located. Is the larger community primarily a residential community, a business community, or an industrial community?	Description of Community:  Residential Community <input type="checkbox"/> Business Community <input type="checkbox"/> Industrial Community <input type="checkbox"/>

**Home and Community-Based Settings and Services  
Provider Self-Assessment  
Non-Residential**

General Questions	Response
5. Is the setting located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment, or in a building located on the grounds of, or immediately adjacent to, a public institution?	Yes <input type="checkbox"/> No Please Describe:
6. Please describe the process within the HCB setting for requesting a modification of any of the federal requirements for an individual (pursuant to the process described in the Federal regulations); such as the assessed need for restriction of a particular individual's egress from the HCB setting.	Process for Modification Request:  Note: modification requests MUST include the person-centered care planning process and MUST be directed at the individual person, not to a group of persons.

**Federal Requirement Category 1:**

***The setting is integrated in and supports full access 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 HCB Services.***

Question	Response
1b. Does the individual participate in outings and activities in the community as part of his or her plan for services?	Yes <input type="checkbox"/> No If Yes response, indicate supporting document and page number, and briefly explain. If No response, please explain:
1c. If an individual wants to seek paid employment in a competitive integrated setting, does the setting staff refer the individual to the appropriate community	Yes <input type="checkbox"/> No If Yes response, indicate supporting document and page number, and briefly explain. If No response, please explain:

**Home and Community-Based Settings and Services  
Provider Self-Assessment  
Non-Residential**

agency/resource?	
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Documentation and additional information, such as a providers transition plan and timeline, that demonstrates compliance under Federal Requirement Category 1 (optional):

<b>Federal Requirement Category 2:</b> <i>The setting is selected by the individual from among various 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 are based on the individual's needs, preferences, and, for residential settings, resources available for room and board.</i>	
Question	Response
2b. Does each individuals' IPP document the different setting options that were considered prior to selecting this setting?  Note: Responding "No" to this question does not mean the provider is out of compliance.	Yes <input type="checkbox"/> No <input type="checkbox"/> If Yes response, indicate supporting document and page number, and briefly explain. If No response, please explain:

Documentation and additional information, such as a providers transition plan and timeline, that demonstrates compliance under Federal Requirement Category 2 (optional):

<b>Federal Requirement Category 3:</b> <i>The setting ensures an individual's rights of privacy, dignity, respect, and freedom from coercion and restraint.</i>	
Question	Response
3d. Does the provider ensure individuals have privacy while using the bathroom and when assisted with personal care?	Yes <input type="checkbox"/> No <input type="checkbox"/> If Yes response, indicate supporting document and page number, and briefly explain. If No response, please explain:

Documentation and additional information, such as a providers transition plan and timeline, that demonstrates compliance under Federal Requirement Category 3 (optional):

**Home and Community-Based Settings and Services  
Provider Self-Assessment  
Non-Residential**

**Federal Requirement Category 4:**  
*The setting optimizes but does not regiment individual initiative, autonomy and independence in making life choices, including daily activities, physical environment and with whom to interact.*

Question	Response
4b. Does the provider structure their support so that the individual is able to interact with individuals they choose to interact with, both at the program and in community settings?	Yes <input type="checkbox"/> No If Yes response, indicate supporting document and page number, and briefly explain. If No response, please explain:

Documentation and additional information, such as a providers transition plan and timeline, that demonstrates compliance under Federal Requirement Category 4 (optional):

**Federal Requirement Category 5:**  
*The setting facilitates individual choice regarding services and supports, and who provides them.*

Question	Response
5a. Does the provider support individuals in choosing which staff provide their care to the extent that alternative staff are available?	Yes <input type="checkbox"/> No If Yes response, indicate supporting document and page number, and briefly explain. If No response, please explain:

Documentation and additional information, such as a providers transition plan and timeline, that demonstrates compliance under Federal Requirement Category 5 (optional):

**Federal Requirement Categories 6 through 9 are NOT APPLICABLE TO NON-RESIDENTIAL SETTINGS**

**Federal Requirement Category 10:**  
*The setting is physically accessible to the individual.*

Question	Response
10a. Do the individuals have the freedom to move about inside and outside the setting or are they primarily restricted	Yes <input type="checkbox"/> No If Yes response, indicate supporting document and page number, and briefly

**Home and Community-Based Settings and Services  
Provider Self-Assessment  
Non-Residential**

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to one room or area?	explain. If No response, please explain:
10b. Are grab bars, seats in bathrooms, ramps for wheel chairs, etc., available so that individuals who need those supports can move about the setting as they choose?	Yes <input type="checkbox"/> No <input type="checkbox"/> If Yes response, indicate supporting document and page number, and briefly explain. If No response, please explain:

Documentation and additional information, such as a providers transition plan and timeline, that demonstrates compliance under Federal Requirement Category 10 (optional):

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