

Frequently Asked Questions: Home and Community-Based Services Settings Rule

Q1. What is the Home and Community Based Services Settings Rule?

A1. The Home and Community-Based Services (HCBS) Settings Rule is in place to support individuals who receive services in Medicaid-funded home and community-based settings. The requirements of the HCBS Settings Rule seek to ensure that individuals are supported in being a part of their chosen community, learning their rights, making an informed decision when choosing their services, and much more. Person-centered thinking is the foundation when implementing those choices.

More information on the requirements of the HCBS Settings Rule can be found [here](#).

Q2. Why is the HCBS Settings Rule important?

A2. In the past, care for individuals with developmental disabilities was often provided in institutional settings. Laws such as the HCBS Settings Rule have been developed to move away from this practice. This legislation supports the inclusion of individuals in their communities.

Q3. Which programs are subject to the HCBS Settings Rule?

A3. The HCBS Settings Rule applies to all home and community-based services funded through Medicaid. Services in both residential and non-residential settings (such as day programs, residential facilities, employment services, and other community-based programs) are subject to the HCBS Settings Rule. Institutional settings, such as hospitals and Intermediate Care Facilities (ICFs), are not funded through HCBS and are not subject to the HCBS Settings Rule.

Q4. How does the HCBS Settings Rule affect residential settings? Is it different from how settings such as day programs or work programs are affected?

A4. Nonresidential settings must comply with requirements 1-5, while residential settings must follow all 10 of the HCBS Settings Rule requirements.

An overview of the federal requirements for Home and Community Based Settings can be found [here](#).

Q5. What if there is a health or safety concern for an individual that would make it unsafe for a provider to follow a requirement of the HCBS Settings Rule?

A5. A provider cannot deny an individual these rights without a modification added to the Individual Program Plan. The individual and their planning team must agree to the modification.

Q6. How is it determined that a setting meets the requirements of HCBS Settings Rule?

A6. To become a provider for a regional center, a provider must first attest that the setting meets HCBS compliance. The HCBS monitoring team at the California Department of Developmental Services (Department) conducts visits and reviews of all regional centers' catchment areas to ensure the HCBS Settings Rule is implemented for each setting. Each regional center also performs their own monitoring of these settings.

Q7. Where can the HCBS Settings Rule be found in legislation?

A7. The HCBS Settings Rule is found in Title 42 of [Code of Federal Regulations](#); §§ 441.301, 441.530, and 441.710. Subsections 441.301 and 441.710 also include standards for person-centered planning.

Q8. The Lanterman Act requires that individuals can receive community services if they choose, so why does the State need to comply with these federal rules?

A8. A significant portion of the services authorized by regional centers are currently paid for with Medicaid funds. Without this funding the State would pay more for the wide array of services now available to individuals with developmental disabilities. If services are provided in non-compliant settings, the State could be at risk to lose federal funds.

Q9. What is the Statewide Transition Plan?

A9. Each state developed a Statewide Transition Plan to describe how it would determine whether home and community-based programs are compliant with the HCBS Settings Rule. California's Statewide Transition Plan describes all of the home and community-based programs affected by these rules. The Plan describes programs administered by each of the State departments and lists the types of providers that provide services. The Plan also identifies sections within current state laws and regulations that conform to the federal requirements.

Q10. What was the Department's timeframe for coming into compliance with the HCBS Settings Rule, and with what help did the Department accomplish this?

A10. All settings needed to demonstrate full compliance with the federal requirements by March 17, 2023. To meet this expectation, the Department convened an advisory group of service providers, advocates, community members, and members of other government agencies.

Q11. If an individual feels that their rights have been violated, where can they go to find information on filing a complaint or grievance?

A11. Information regarding the complaint or grievance process can be found [here](#).