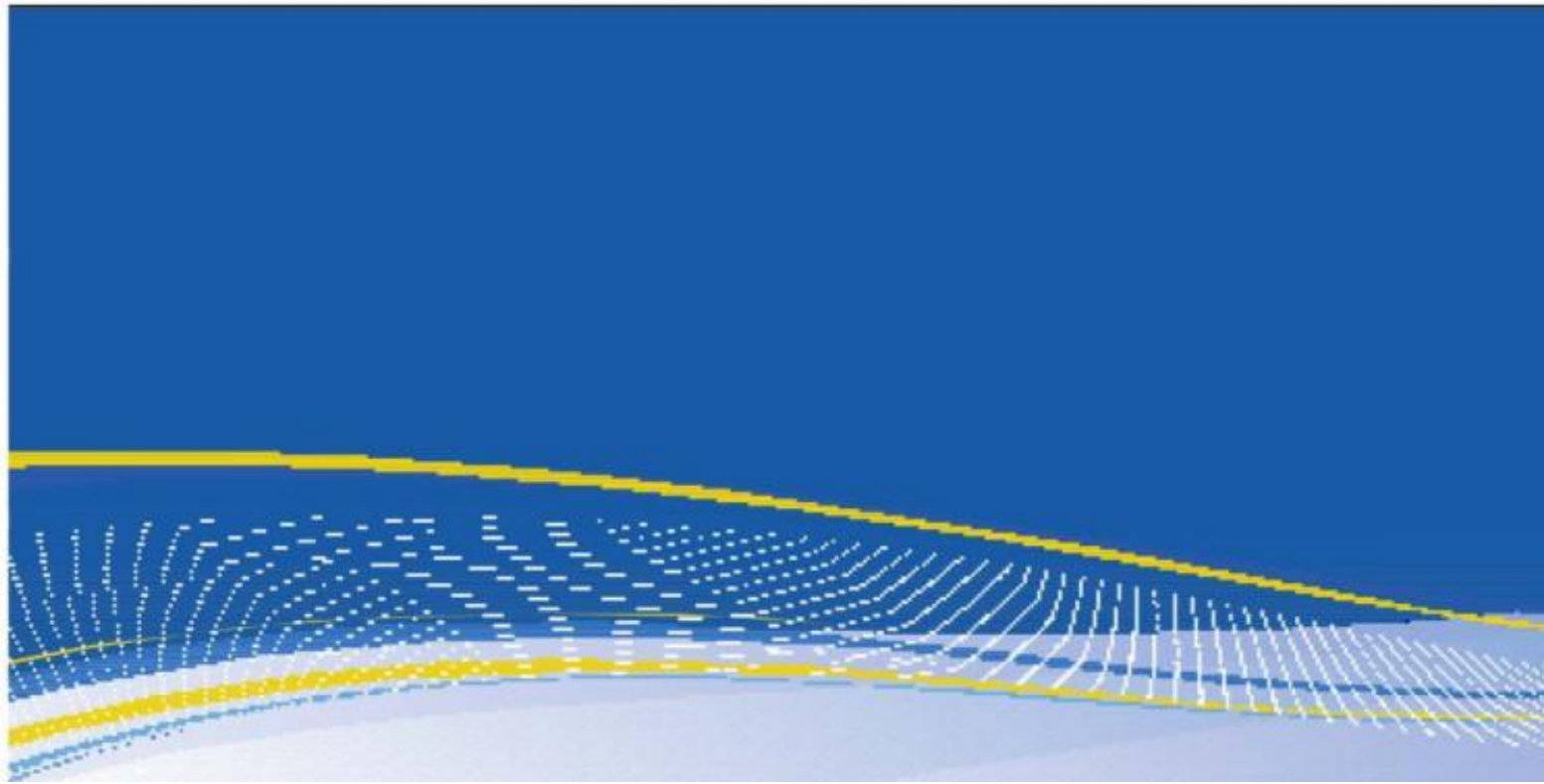




Overview of Medicaid HCBS Final Rule



Intent of the Final Rule

To ensure that individuals receiving long-term services and supports through home and community based service (HCBS) programs under the 1915(c), 1915(i) and 1915(k) Medicaid authorities have:

- **Full access to benefits of community living**
- **The opportunity to receive services in the most integrated setting appropriate**

To enhance the quality of these services and provide protection to participants

Home and Community-Based Setting Requirements

The home and community-based setting (HCBS) requirements establish an outcome-oriented focus on the **nature and quality of individuals' experiences**

The requirements maximize opportunities for individuals to **have access to the benefits of community living and the opportunity to receive services in the most integrated setting**

Home and Community-Based Setting Requirements

The final rule establishes:

- Mandatory requirements for the qualities of home and community-based settings (including discretion for the Secretary to determine other appropriate qualities)
- Settings that are **not** home and community-based
- Settings **presumed not** to be home and community-based
- State compliance and transition requirements

Home and Community-Based Setting Requirements

The Home and Community-Based setting:

- Is **integrated in** and **supports access to** the greater community
- Provides **opportunities** to seek employment in competitive integrated settings, engage in community life, and control personal resources
- Ensures the individual receives services in the community **to the same degree of access** as individuals not receiving Medicaid home and community-based services

Home and Community-Based Setting Requirements

The Home and Community-Based 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

NOTE: Person-centered service plans document the options based on the individual's needs, preferences; and for residential settings, the individual's resources

Home and Community-Based Setting Requirements

The Home and Community-Based setting:

- Ensures an individual's **rights of privacy, dignity, respect, and freedom** from coercion and restraint
- Optimizes **individual initiative, autonomy, and independence** in making life choices
- **Facilitates individual choice** regarding services and supports, and who provides them

Home and Community-Based Setting Requirements for Provider-Owned or Controlled Residential Settings

Additional Requirements for the setting include:

- That the unit/dwelling is owned, rented, or occupied under **legally enforceable agreement**
- That there is the **same responsibilities/protections** from eviction as all tenants (under landlord tenant law of state, county, city or other designated entity)

Home and Community-Based Setting Requirements for Provider-Owned or Controlled Residential Settings

Additional Requirements for the setting include:

- Each individual **has privacy** in their sleeping or living unit, and units have lockable entrance doors (with the individual and appropriate staff having keys to doors, as needed)
- Individuals sharing units have a **choice of roommates**
- Individuals have the **freedom to furnish and decorate** their sleeping/living units (within the lease or other agreement)

Home and Community-Based Setting Requirements for Provider-Owned or Controlled Residential Settings

Additional Requirements for the setting include:

- Individuals have freedom and support to **control their schedules and activities** and have access to food any time
- Individuals may have **visitors at any time**
- The unit / dwelling is **physically accessible** to the individual

Settings that are NOT Home and Community-Based

- Nursing facilities
- Hospitals
- Institutions for Mental Disease (IMDs)
- Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICFs/IIDs)

Settings **PRESUMED NOT** to Be Home and Community-Based

- Settings in a publicly or privately-owned **facility providing inpatient treatment**
- Settings on grounds of, or adjacent to, a **public institution**
- Settings with the **effect of isolating individuals from the broader community** of individuals not receiving Medicaid HCBS

Settings PRESUMED NOT to Be Home and Community-Based-Heightened Scrutiny

These listed in the last slide may NOT be included in states' 1915(c), 1915(i) or 1915(k) HCBS programs unless:

- The State submits evidence (including public input) demonstrating that the setting does have the qualities of a home and community-based setting and not the qualities of an institution
- AND**
- The Secretary finds (based on a heightened scrutiny review of the evidence) that the setting meets the requirements for home and community-based settings and does NOT have the qualities of an institution

1915(i) State Plan HCBS Benefit

The State is required to set:

- Needs-based criteria & evaluation
- Independent assessment for each individual determined to be eligible for the benefit
- Person-centered service plan
- Provider qualifications
- Definition of individual's representative
- Self-directed services
- State responsibilities & quality improvement

1915(i) State Plan HCBS Benefit - Provider Qualifications Requirements

The State defines:

- Standards for agency and individual provider
- Standards for agents conducting evaluations, assessment, & service plan development
- Conflict of interest standards to assure independence

Note: Conflict of interest standards apply to public and private individuals/entities