



Home & Community Based Services Setting Rule

Department of Medical Assistance Service
and
Department of Behavioral Health and Developmental Services

Housekeeping

- Due to the size of this training all microphones are muted.
- Please enter all questions into the Q&A
- We will be sending out a Q&A document after this call. Any questions we are unable to answer today will be included in that document.
- This training is being recorded.

Purpose

The purpose of this training is to give a brief overview of what the Home and Community Based Services Settings Rule is, who it effects and where Virginia is in making sure providers are in full compliance.

“The Big Picture”

Individuals receiving Medicaid home and community based services must have every opportunity to live with the same rights, freedoms, and degree of self-determination, and have the opportunity to integrate within their community, as anyone not receiving Medicaid home and community based services. In short, HCBS members must be able to live as free and independent a life as you and me.

Upcoming Training Topics:

Be on the lookout for subsequent trainings that will occur every 2 weeks following this training.

- Autonomy and community involvement. Privacy, dignity, respect, freedom from coercion and restraint- 3/25/22 at 10am
- Residential specific rights; modifications- 4/8/22 at 10am
- Documentation- 4/22/22 at 10am

Home and Community Based Services

- The Home and Community-Based Services (HCBS) settings regulations (previously known as the “Final Rule”) were published in the Federal Register on January 16, 2014; they became effective March 17, 2014. States have until March 17, 2023 to come into compliance.
- Designed to enhance the quality of HCBS, provide additional protections, and ensure full access to the benefits of community living.

Home and Community Based Services

The Centers for Medicare and Medicaid Services (CMS) established new Home and Community Based Services (HCBS) regulations that include requirements for Medicaid HCBS settings.

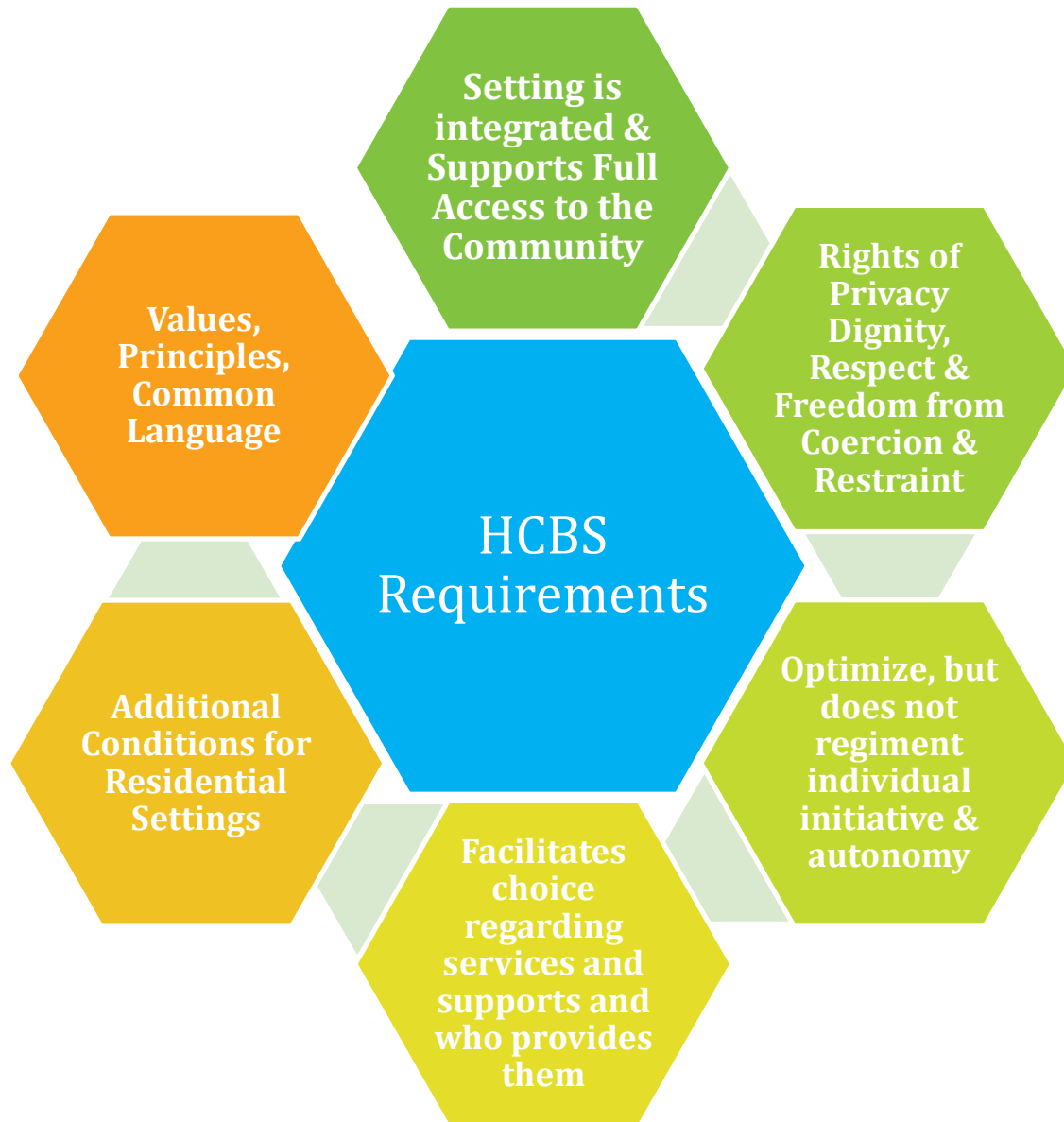
Home and Community Based Services

These rules apply to the following services:

- Group homes
- Sponsored placements
- Supported living residential services
- Group Day
- Group Supported Employment

Home and Community Based Services

These regulations were developed to ensure that individuals receiving services under Medicaid waiver authorities have full access to benefits of community living and the opportunity to receive services in the most appropriate and integrated setting.



The HCBS Settings Rule Goals

- Maximize opportunities for participants to have full access to the benefits of community living
- Ensure participants can receive services in the most integrated setting
- Ensure the quality of Home and Community-Based Services
- Provide rights and protections for Individuals

Home and Community Based Settings

- The Departments for Medical Assistance Services and Behavioral Health and Developmental Services are conducting a combination of on-site and desk reviews to validate provider self-assessments and ensure that providers are implementing their HCBS policy.
- Settings not in full compliance with the CMS HCBS settings requirements and their HCBS policies are required to develop and submit a remediation plan detailing the actions that will be taken to bring a setting into full compliance with the HCBS settings requirements. Remediation plans are due 30 days after the provider receives their summary.

Provider Organizational Compliance

- In 2017, all HCBS provider agencies were instructed to complete a self-assessment in the REDCap system.
- As part of this assessment, each agency had to develop an HCBS rights policy, disclose HCBS rights to the individuals receiving services from the provider, and train all staff on HCBS rights. The state team named this process **Provider Organizational Compliance**.
- This was Phase 1 of Virginia's plan to transition into full HCBS compliance.

Setting Validation Methods

- **Phase 2** of Virginia's transition plan is to complete setting specific validations for each HCBS setting in the state. This will be conducted via:
 - ✓ Onsite reviews, (tours, record reviews and interviews with individuals and staff)
 - ✓ Standalone desk audits of individuals receiving services
 - ✓ Existing reviews (including the QSR).
- As a state, we are looking at **each setting** to ensure that the HCBS policy has been translated into practice. An agency is not compliant by simply drafting a policy.
- Compliance is determined by evaluating how this policy has shifted culture and practice at the settings level to ensure that recipients of HCBS services are receiving true community-based experiences.

HCBS Setting Basics:

- Be integrated and support access to the greater community;
- Provide opportunities to seek employment and work in competitive integrated settings;
- Facilitate individual choice regarding services & supports and who provides them;
- Ensure an individual's rights of privacy, dignity, respect, and freedom from coercion and restraint;
- Be selected by the individual from among setting options, including non-disability specific settings.

Additional Rights in HCBS Residential Locations:

- Individuals should have a lease or other legally enforceable agreement;
- Privacy in his/her unit and lockable doors;
- Choice of roommates;
- Freedom to furnish and decorate the unit;
- Freedom and support to control his/her schedules and activities;
- Have access to food any time;
- Right to have visitors at any time.

Modifications

Any modifications of these conditions must be supported by a specific assessed need and justified in an individual's person-centered service plan on the Restrictions of Everyday Freedom form.

Home and Community Based Settings

- The transition period for HCBS compliance is for currently operating settings only.
- New settings are required to be fully HCBS compliant prior to providing Medicaid HCBS. New settings are NOT eligible for a transition period to demonstrate compliance.

HCBS Systems Change

- ❑ The state is responsible for providing information, resources and tools needed to facilitate provider compliance.
- ❑ The state is responsible for assuring CMS through it's STP that the system, including providers, transition to full compliance.
- ❑ Ongoing reporting to CMS on progress on outcomes.
- ❑ The state is responsible for monitoring compliance actions and ongoing compliance.

HCBS Systems Change

- ❑ Providers are responsible for educating their organizations, staff, individuals supported on responsibilities associated with HCBS compliance.
- ❑ Providers are responsible for identifying needed compliance actions for all settings and implementing those actions.
- ❑ Providers are responsible for ensuring services and supports provided are integrated and reflect an organizational culture consistent with HCBS values and principles.
- ❑ Providers are responsible for bringing their organizations and all settings into full compliance.

Strategies for Compliance

- Develop and implement a policy on community integration/participation that describes expectations for staff and for how and when opportunities and preferences of individuals will be sought.
- Include in staff position descriptions expectations for knowledge of and compliance with the HCBS settings requirements.

Strategies for Compliance

- Incorporate a policy and practice to regularly seek input from individuals supported and their families/guardians on their experience with services and recommendations to enhance community participation.
- Review policies, procedures, mission statements, forms, marketing materials to acknowledge and incorporate HCBS rights and settings requirements.

Strategies for Compliance

- Update outdated language and terminology in policies, procedures, mission statements, forms, marketing materials, etc.
- Develop and implement an HCBS compliance self-assessment for direct support professionals to determine staff perceptions of each settings' compliance with HCBS rights and expectations and recommendations for improvement.
- Train staff often on HCBS rights. Incorporate scenarios, interactive sessions and meaningful dialogue as often as possible throughout all staff levels.

Strategies for Compliance

- Develop and implement an internal HCBS team with direct support professionals at each setting operated by your organization. This team can be cultivated to be HCBS subject matter experts at their specific setting.
- The team can discuss HCBS implementation, troubleshoot and brainstorm on specific situations and questions, discuss new and creative strategies to facilitate increased community participation, facilitate discussions with individuals supported on their experience, preferences and ideas, etc.

Reoccurring Remediation areas

- HCBS rights not being understood or distinguished from Human Rights
- Documentation not showing community participation, choice, autonomy and independence
- Staff not understanding the definition of coercion, seclusion and/or restraints
- Individuals not having keys to bedroom doors or front door of home
- Modifications to HCBS rights not being documented in Part V
- Provider lease agreements/residential agreements not addressing reason for eviction
- Individual inability to access or spend own money
- Providers not understanding TRUE Community engagement
- Activities not individualized, supports happening in large groups
- Providers not supporting/encouraging family involvement
- Excessive signage in the person's home

Full Compliance

- Once a setting has achieved full compliance, a letter will be sent to the provider.
- **Reaching HCBS compliance is not a one-time achievement.** A provider must maintain their compliance status which will be monitored on an ongoing basis through:
 - The DBHDS Office of Licensing
 - The Office of Human Rights
 - DMAS QMR
 - Support Coordination and other quality monitoring reviews.
- **If a setting can't reach full compliance, the provider participation agreement will be reviewed.** Possible consequences include
 - suspension of billing, and
 - removal of the agreement.

HCBS Resources

Statewide Waiver Transition Plan for
review:

http://www.dmas.virginia.gov/Content_pages/HCBS.aspx

HCBS Resources



The Toolkit can be located on the DMAS Website:

<https://www.dmas.virginia.gov/providers/long-term-care/waivers/home-and-community-based-services-toolkit/>

HCBS Resource

Additional questions can be sent to your regional CRC

Region 1 - Todd Cramer

todd.cramer@dbhds.Virginia.gov

Region 2 – Nedria Ames

nedria.ames@dbhds.virginia.gov

Region 3 - Todd Cramer

todd.cramer@dbhds.virginia.gov

Region 4 – Ronnitta Clements

ronnitta.clements@dbhds.virginia.gov

Region 5 – Michelle Guziewicz

michelle.guziewicz@dbhds.virginia.gov

HCBS Resource

You may also reach out directly to DMAS
hcbscomments@dmass.virginia.gov

Questions?