

HCBS Settings Rule: Attestation Tool for Non-Residential Settings

Attest to the setting's compliance with the following characteristics by checking "Yes" or "No." The setting under this contract must be fully compliant with Characteristics 1-12 in order to provide Medicaid HCBS services.

Characteristic 1: The setting is integrated in and supports full access of individuals receiving Medicaid HCBS 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 HCBS. 42 CFR 441.301(c)(4)(i)/441.710(a)(1)(i)/441.530(a)(1)(i)

Yes

No

Indicators

The setting is not in a public or privately-owned facility that provides inpatient treatment; is not on the grounds of, or immediately adjacent to, a public institution; is not located in a gated or secured community for people with disabilities; is in a location that facilitates integration with the greater community; is physically accessible.

The setting allows the freedom to move about inside and outside of the setting; provides HCBS in an area of the setting that is fully integrated with individuals not receiving Medicaid HCBS; affords opportunities for individual schedules; does not restrict individuals from having knowledge of or access to information regarding age-appropriate activities outside of the setting, including transportation, and providers in the setting facilitate and support access to these activities; has activities to pursue work as an option (if applicable); welcomes and encourages visitors.

The individual(s) can come and go at any time; can have visitors at any time; are informed that they are not required to sign over their paychecks to the provider.

Employment Settings: The setting provides the opportunity for individuals to participate in negotiating work schedules, break or lunch times, and benefits with the employer to the same extent as individuals not receiving Medicaid funded HCBS.

Where Personal Budget Assistance is Provided: The Setting facilitates the opportunity for the individual(s) to have a checking or savings account or other means to access and control personal funds (where PBA is part of services).

Characteristic 2: The setting is selected by the individual from among setting options, including non-disability specific settings and an option for a private unit in a residential setting. The settings options are identified and documented in the person-centered plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board. 42 CFR 441.301(c)(4)(ii)/ 441.710(a)(1)(ii)/441.530(a)(1)(ii)

Yes

No

Indicators

The setting reflects individual needs and preferences and does not restrict access to non-disability-specific settings.

Characteristic 3: The setting ensures an individual's rights of privacy, dignity, and respect, and freedom from coercion and restraint. 42 CFR 441.301(c)(4)(iii)/441.710(a)(1)(iii)/441.530(a)(1)(iii)

Yes

No

Indicators

The setting assures staff interact and communicate with the individual(s) respectfully and in a manner in which they would like to be addressed; keeps all information about the individual(s) private, and provides this assistance in private, as appropriate; ensures that individual supports and plans to address behavioral needs are specific to the individual and not the same as everyone else in the setting (if applicable); ensures that individual supports and plans to address behavioral needs are not restrictive to the rights of every individual receiving support within the setting (if applicable); requires that individual(s) and/or their representative grant informed consent prior to use of restraints and/or restrictive interventions and documents these interventions in the PCSP; offers a secure place for the individual(s) to store personal belongings; ensures information about filing a complaint is made readily available and informs the individual(s) of how to make a complaint; communicates (written and oral) in a language that the individual(s) understand.

Characteristic 4: The setting optimizes, but does not regiment individual initiative, autonomy, and independence in making lifechoices, including but not limited to, daily activities, physical environment, and with whom to interact.
42 CFR 441.301(c)(4)(iv)/441.710(a)(1)(iv)/441.530(a)(1)(iv)

Yes

No

Indicators

The setting has no barriers preventing entrance to or exit from certain areas of the setting; if modifying the HCBS Settings qualities and conditions, supports this modification with an assessed need justified in the PCSP prior to implementation; documents positive interventions and supports used prior to plan modifications; documents less intrusive methods to meet needs used prior to plan modifications; posts or provides information on individual rights; allows the individual(s) to engage in legal activities in a manner consistent with individuals who are not receiving Medicaid funded services and supports.

The setting affords opportunities for activities matched to individual skills, abilities, and desires; affords opportunities for the individual(s) to choose with whom to do activities, either in the setting or outside the setting, and assures participation is voluntary; affords full access to a dining area, comfortable seating, opportunity to converse with others during break/meal times, and dignity to diners; provides for alternative meals and/or private dining if requested (if applicable); provides access to food at any time consistent with individuals not receiving Medicaid HCBS; supports a variety of individual goals and needs (indoor/outdoor gathering spaces; large group activities and solitary activities; stimulating and calming activities).

Characteristic 5: The setting facilitates individual choice regarding services and supports, and who provides them.
42 CFR 441.301(c)(4)(v)/441.710(a)(1)(v)/441.530(a)(1)(v)

Yes

No

Indicators

The setting does not restrict the services, providers, or supports available to the individual(s); affords the opportunity to update/change individual preferences at any time; provides information to the individual(s) about changes or increases to HCBS; ensures individual(s) receive support to develop plans supporting their needs and preferences; staff is knowledgeable about interests, preferences, and needs of the individual(s); ensures the individual(s) are supported to make decisions and exercise autonomy to the greatest extent possible.

Characteristic 6: The setting enforces the Home and Community-Based Settings Regulation requirements.
42 CFR 441.301(c)(4)/441.710(a)(1)/441.530(a)(1)

Yes

No

Indicators

Staff receive new hire training and continuing education related to the rights of the individual(s) and member experience as outlined in HCBS Settings rules. Policies on participant rights and experiences are made available when requested. Policies on HCBS Settings rules are regularly reassessed for compliance and effectiveness.

By signing this form, I attest that the setting indicated below will comply with the characteristics described and all Federal regulations they pertain to as soon as services begin at this location. I understand that Medicaid home and community-based services provided in a setting which does not abide by these requirements are not eligible for Medicaid payment. Claims that I submit while my site has not been deemed compliant by the State and/or is not in compliance with these regulations may be subject to recoupment.

Provider/Setting Name	Setting Address
Name of Authorized Representative (Printed or Typed)	Title
Signature/Date	Date
Telephone Number	Email