

# Policy and the use of cameras for DSPD waivers

The underlying principle of the Home and Community Based Services (HCBS) Settings Rule is **community inclusion** for all Medicaid HCBS participants. One of the key proponents of the rule is ensuring privacy, dignity, and respect of individuals receiving HCBS services.

For residential settings, it is the right of the individual to live in a setting that feels like home and is not institutional in nature. Surveillance equipment does not have a home-like feeling.

For non-residential settings, cameras cannot be used to monitor all individuals and staff simply because of a generalized desire to keep tabs on people or catch any misconduct as this creates an institutional-like environment.

**Surveillance equipment means any electronic device, hardware or software, that is capable of collecting, capturing, recording, retaining, processing, intercepting, analyzing, monitoring, or sharing audio, visual, digital, location, biometric, or similar information.**

Although cameras are not explicitly discussed in the HCBS Settings Final Rule, the state of Utah has determined cameras to be of concern for individual rights to privacy, dignity, and respect in certain situations in HCBS service settings. Use the following information to determine if surveillance equipment is in line with the Settings Rule:

## **Surveillance equipment in the following circumstances generally do not raise privacy concerns:**

- Staff only areas (such as staff offices/med carts)
- Monitoring entrances and exits (including doorbell cameras)
- Monitoring public areas outside of the building (such as parking lots)
- In commercial/integrated areas of the setting (such as stores, cafes, etc.)

**CMS has determined that individuals cannot just sign an agreement allowing for electronic surveillance equipment. Individuals must go through the individualized person-centered process described below.**

Electronic surveillance in private or common areas must be justified through the individualized rights restrictions process and the providers human rights committee.

### **Utah Rule 539-3:**

New technology allows for electronic surveillance of persons and programs. In some cases such surveillance is necessary to assure the health and safety of persons in care. The Division wants to assure the maximum amount of privacy is maintained for persons under such surveillance.

### **Contact Information & Resources**

Submit any questions to: [HCBSSettings@utah.gov](mailto:HCBSSettings@utah.gov)

Additional information: <https://medicaid.utah.gov/ltc-2/hcbstransition/>



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