

HCBS Settings Rule: Attestation Tool for 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 located among other residential buildings, private businesses, retail businesses, restaurants, etc. that facilitates integration with the greater community.

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 access to information regarding age-appropriate activities including competitive work, shopping, attending religious services, medical appointments, dining out, etc. outside of the setting; has activities to pursue work as an option (if applicable); provides contact information, access to and training on the use of public transportation, such as buses, taxis, etc., and has public transportation schedules and telephone numbers available in a convenient location; where public transportation is limited, provides information about resources to access the broader community, including wheelchair accessible transportation.

Should Personal Budget Assistance be 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.

Individual(s) can come and go at any time and are informed they are not required to sign over their paychecks to the provider.

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 ensures informed choice based on individual resources; does not restrict access to non-disability-specific settings; provides the option of a private room to the resident(s), as appropriate.

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 respectfully and in a manner in which the individual(s) would like to be addressed; keeps all information about the individual(s) private; 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); offers a secure place 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; provides assistance with personal appearance, dress, and grooming to appear as the individual desires, and provides personal assistance in private, as appropriate; assures that staff do not talk to other staff about the individual(s) in the presence of others or in the presence of an individual as if he/she were not present; affords dignity to the diners.

Informal communication (written and oral) is conducted in a language that the individual(s) understand.

The Individual(s) can have a private cell phone, computer or other personal communication device, or the setting provides access to a telephone or other technology to use for personal communication in private at any time; can file an anonymous complaint.

Characteristic 4: The setting optimizes, but does not regiment individual initiative, autonomy, and independence in making life choices, 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 posts or provides information on individual rights; allows the individual(s) to engage in legal activities (ex. vote when 18 or older, consume alcohol when 21 or older) in a manner consistent with individuals in similar and/or the same setting who are not receiving Medicaid funded services and supports; affords the opportunity for tasks and activities matched to individual skills, abilities, and desires; affords opportunities for individual(s) to choose with whom to do activities, either in the setting or outside the setting, and participation is voluntary.

The Individual(s) can sit in any seat in a dining area; can eat privately if desired; can request an alternative meal if desired.

The physical environment supports a variety of individual goals and needs (for example, indoor and outdoor gathering spaces, larger group activities as well as solitary activities, stimulating as well as 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 made available; affords the opportunity to update/change individual preferences at any time; 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).

Characteristic 6: The individual has a lease or other legally enforceable agreement providing similar protections.

42 CFR 441.301(c)(4)(v)/441.710(a)(1)(v)/441.530(a)(1)(vi)(A)

☐ Yes ☐ No

Indicators

The setting provides a lease or, for settings in which landlord tenant laws do not apply, a written residency agreement; informs the individual(s) of their rights regarding housing and when they could be required to relocate; informs the individual(s) of how to relocate and request new housing; in the written agreement, includes language that provides protections to address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant laws.

Characteristic 7: The setting ensures the individual has privacy in their sleeping or living unit including lockable doors, choice of roommates, and freedom to furnish or decorate the unit. 42 CFR 441.301(c)(4)(v)/441.710(a)(1)(v)/441.530(a)(1)(vi)(B)

☐ Yes ☐ No

Indicators

The setting does not have cameras present; provides the individual(s) with the choice of a roommate; informs the individual(s) of how to request a roommate change.

The Individual(s) can close and lock the bedroom and bathroom doors; can have furniture, linens, and other household items which reflect preferences, interests, and hobbies as desired.

The Staff only use a key to enter a living area or privacy space under limited circumstances agreed upon with the individual(s); or along with other residents, always knock and receive permission prior to entering a bedroom, bathroom, or private living space.

Characteristic 8: The setting ensures the individual has the freedom and support to control his/her own schedule and activities, and have access to food at any time. 42 CFR 441.301(c)(4)(v)/441.710(a)(1)(v)/441.530(a)(1)(vi)(C)

☐ Yes ☐ No

Indicators

The Setting assures snacks are accessible and available anytime; does not require a set schedule for waking, bathing, eating, exercising, activities, etc.; provides access to such things as a television, radio, and leisure activities that interest the individual(s), and permits the scheduling of these activities at the individuals' convenience. The Individual(s) can have a meal at the time of their choosing.

Characteristic 9: The individual can have visitors of his/her choosing at any time.

42 CFR 441.301(c)(4)(v)441.710(a)(1)(v)/441.530(a)(1)(vi)(D)

☐ Yes ☐ No

Indicators

The individual(s) can have visitors at any time; can have private visits with family and friends; are not restricted in visitors' meeting areas. Visitors are welcomed and encouraged.

Characteristic 10: The setting is physically accessible to the individual.

42 CFR 441.301(c)(4)(v)441.710(a)(1)(v)/441.530(a)(1)(vi)€

☐ Yes ☐ No

Indicators

The Setting ensures there are no gates, Velcro strips, locked doors, or other barriers preventing entrance to or exit from certain areas of the setting; is physically accessible and there are no obstructions such as steps, lips in a doorway, narrow hallways, etc., limiting mobility in the setting or if they are present are there environmental adaptations to ameliorate the obstruction; provides full access to typical facilities in a home such as a kitchen with cooking facilities, dining area, laundry, and comfortable seating in the shared areas; provides supports for those who need it to move about the setting as they choose, such as grab bars, seats in the bathroom, ramps, viable exits for emergencies, etc.

Characteristic 11: The setting ensures that any modification of the HCBS Settings qualities and conditions is supported by a specific assessed need and justified in the person-centered service plan.

42 CFR 441.301(c)(4)(v)441.710(a)(1)(v)/441.530(a)(1)(vi)(F)

☐ Yes ☐ No

Indicators

The plan includes a description of the condition that is directly related to the assessed need; data to support ongoing effectiveness of the intervention; time limits for periodic reviews to determine the ongoing necessity of the modification; informed individual consent; assurance that the intervention will not cause the individual harm.

The individual(s) and/or their representative grant informed consent prior to the use of restraints and/or restrictive interventions, and these interventions are documented in the person-centered plan.

Documentation notes if positive interventions and supports were used prior to any plan modifications; that less intrusive methods of meeting the need were tried.

Characteristic 12: 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	
Telephone Number	Email