

Physical site environment and settings rule-DSPD certified providers

Purpose

This document is provided as guidance and is not a legal document. It does not override or replace the need to be familiar with rules. Current rules may be found on [the DLBC website](#).

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Definitions

Home and Community-Based Services (HCBS) Settings Rule: A federal regulation that providers must adhere to when providing Medicaid waiver services funded through the Utah Division of Services for People with Disabilities (DSPD). Providers are expected to remain in compliance with Office of Licensing (OL) rules and the settings rule at each certified site. The settings rule intends to ensure clients retain their rights of privacy, dignity, and respect; freedom from coercion and restraint; integration in the communities in which they live; and their autonomy and independence in making life choices. Commonly referred to as settings rule, HCBS settings rule, or settings final rule.

Note: OL uses the term "clients" for individuals receiving Utah DSPD-Medicaid waiver services. Other regulations and agencies may use terms like "individual," "person," or "person receiving services."

Human Rights Restrictions (HRR): A documented limitation on a client's rights, approved by the provider's Human Rights Committee (HRC), to support their health and safety. Rights restriction documents may be reviewed by OL during inspections to ensure site-specific health and safety needs are being addressed appropriately, and when they call for physical site alterations in order to ensure the health and safety of clients at the site.

HCBS Settings Rule Attestation and Self-Assessment Tools: Required forms for an initial DSPD certified site application, where a provider attests that the privacy, free access, and other attributes of the site meet the standards of the settings rule. Separate forms are used for residential and non-residential sites.

Setting: Where clients receiving Utah DSPD-Medicaid waiver program funded services live or receive services. This includes residential (e.g., DSPD Residential support certification) and non-residential (e.g., DSPD Day support certification) settings. Commonly referred to as DSPD certified sites.

Physical environment

General safety measures

All certified sites are required to adhere to general safety measures outlined in OL's rule R501-23. Examples include:

- Handrails for sets of 3 or more stairs.
- An emergency phone accessible to all clients.
- A first aid kit, fire extinguishers, and smoke and carbon monoxide alarms on each floor.

Any items which pose a risk to the health or safety of clients must be addressed by the provider without limiting the clients access to the environment.

- Example: HVAC intake vents should be secured, electrical wires covered, and wall/ceiling-mounted furnishings properly anchored. Yards should be cleared of hazardous debris. Sites should be clean, sanitary, and demonstrate that employees are taking health and safety of the environment into consideration while also ensuring clients have free choice, autonomy, and support.

Client access to the environment

Each client receiving Utah DSPD-Medicaid waiver services must have free access to medications, chemicals, food, and spaces throughout a certified site except as specified in human rights restriction documents.

- Example: If chemicals, food, medications, knives, laundry rooms, or anything else is locked or inaccessible to clients (including in lock boxes); all clients must either have personal keys or combinations they can use to access the locked items, or they must have a documented and approved rights restriction.

Client-specific safety measures

When a human rights restriction has documented that there is a client-specific safety measure that needs to be in place at a site, the safety measure needs to be implemented in a way that ensures safety for the client(s) who need the safety measure, while not impacting client(s) who do not require the safety measure.

- Example: If one client has an approved rights restriction requiring chemicals to be locked due to a history of ingesting them; all chemicals at the site must be stored in a locked area. However, all clients who do not have the rights restriction should be able to freely access those locked chemicals (e.g., via a key or passcode).
- Example: If one client has an approved rights restriction requiring medications to be locked due to a history of ingesting their or others' medications unsafely; all medications at the site should be locked. However; clients who do not need a rights restriction should have access to their own medications (e.g., via a key or passcode).

Adhering to Settings Rule

In addition to OL's rule R501-23, all DSPD certified sites must comply with the settings rule and the attestation and self-assessment tools submitted for each site. OL may review these tools during inspections to confirm compliance, which is a requirement for providing Medicaid services.

- Privacy: The sites must ensure privacy for the occupants. Privacy features and furnishings may include locks on exterior doors, locks for client bedrooms, and privacy curtains on windows.
- Shared spaces: A shared bathroom with 2 doors (one to a hallway, one to a client bedroom) must have locking mechanisms to prevent unpermitted access to both the bedroom and the bathroom while it is in use.
- Accessibility: Locks on doors should be chosen to accommodate client needs (e.g., push-button or lever handles for those with dexterity challenges).
- Autonomy: Temperature control of the living space should be accessible within the certified site and accessible to the clients receiving DSPD services for autonomy and safety purposes.
- Emergencies: A home address or unit number must be clearly visible from the street to allow emergency personnel and guests to find the location easily. Windows that can be opened must open fully to allow clients to open or close them at their discretion and to ensure they can be used for emergency egress.

- Staff Access: For client safety and autonomy purposes, all staff must have a key to each bedroom, bathroom door, and any other restricted area in the home. Provider employees must be able to demonstrate that they have access to a key to each restricted area, bedroom, and bathroom.

Bedroom capacity

The capacity of each bedroom in a certified site is one. If more than one client is residing in a bedroom during an inspection, OL may request documentation supporting the approval or choice of this at any time.

- Example: Married clients, consenting siblings, and other circumstances in which you may normally see 2 adults sharing a bedroom in a community home are some of the rare circumstances in which more than one client could be permitted to reside in one bedroom.

Additional information

HCBS Settings Rule

Additional information regarding Settings Rule can be found by visiting the DSPD [website](#). Questions about Settings Rule and human rights may be submitted to: communityinclusionteam@utah.gov.

Contract information

The Office of Licensing oversees the licensing and certification of individual sites that are operated by a provider, and does not oversee a provider's contract or the general contracting process. Information regarding contract requirements can be found by reviewing the Scope of Work for the specific contract held by the provider. All contracts can be found on the [Department of Health and Human Services \(DHHS\) website](#).

