HCBS Settings Compliance: From Rules to Reporting

Application Across Community Support System Provider Services

ARKANSAS DEPARTMENT OF HUMAN SERVICES

Welcome



Welcome to the Home and Community-Based Services (HCBS)Settings Rule Training.

During this session, we will review HCBS setting requirements and consider how those requirements apply across Community Support System Provider (CSSP) services and settings.

As we move through the training, consider how individual choice, rights, and community access are reflected in your organization's daily practices.

HCBS Settings Rule

In 2014, the Centers for Medicare & Medicaid Services issued a final rule requiring states to review and evaluate residential and non-residential HCBS settings.

A setting is not home and community-based solely because of its location. Compliance is also reflected in policies, staff practices, daily routines, and the individual's experience.

1	**Community Access**	Integrated settings support full access to the greater community.
2	**Choice and Rights**	Settings protect privacy, dignity, respect, autonomy, and individual choice.
3	**State Responsibility**	Arkansas assesses applicable settings, supports compliance, and reports required information to CMS.

HCBS Criteria for Non-Residential Settings

The rule is applied in service delivery and demonstrated through the person's experience.

START WITH THE PERSON — **LOOK FOR THE LIVED EXPERIENCE**

1

LISTEN & PLAN

Identify goals, preferences, and assessed needs.

Person-centered Planning, Choice of Setting

2

OPEN COMMUNITY PATHWAYS

Offer employment, community life, and access comparable to people not receiving HCBS.

Community Integration, Comparable Access

3

SUPPORT INDIVIDUAL CHOICE

Facilitate choice of services and providers, and support decisions about activities and interactions.

Autonomy & Independence, Choice of Services & Providers

4

CONFIRM RIGHTS IN PRACTICE

Protect privacy, dignity, and respect, with freedom from coercion and restraint.

Rights & Dignity, Daily Experience

HCBS Criteria for Residential Settings

Here we apply the core HCBS criteria and protections, so the setting functions as a home.

START WITH THE PERSON

CONFIRM THE EXPERIENCE OF HOME

1	2	3	4	5
CHOOSE & PLAN	**CONNECT TO WORK & COMMUNITY**	**DIRECT DAILY LIFE**	**PROTECT HOME & RIGHTS**	**INDIVIDUALIZE SUPPORTS**
Goals, preferences, assessed needs	Employment, community life, comparable access	Activities, interactions, services / providers	Occupancy, privacy, dignity and accessibility	Schedules, food, visitors and assessed changes
Choice of Setting Person-centered Planning	**Community Integration, Employment & Community Life**	**Autonomy & Independence, Choice of Services & Providers**	**Lease or Agreement, Privacy in the Living Unit**	**Control of Schedule & Access, Individually Assessed Modifications**

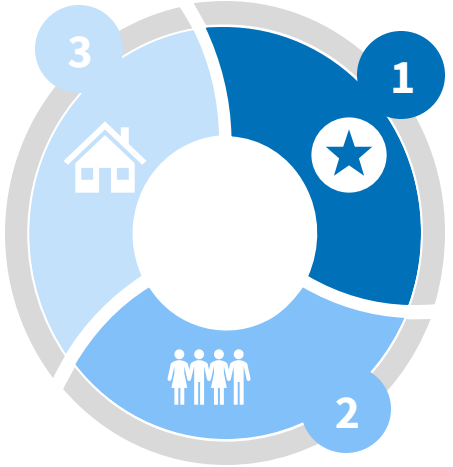
Additional Criteria for Residential Settings



HCBS requirements are intended to ensure that individuals experience their residential setting as a home, exercise meaningful choice and control, and remain connected to the broader community.

HOME

A setting that functions as a home



CHOICE

Meaningful control over daily life

COMMUNITY

Access and participation beyond the setting

Heightened Scrutiny

Some settings require additional evidence that the setting is truly home and community-based.



A setting may be presumed institutional when it:

- Is in a facility that also provides inpatient institutional treatment.
- Is on the grounds of, or immediately adjacent to, a public institution.
- Has the effect of isolating individuals from the broader community.

CMS reviews evidence to determine whether the setting has HCBS qualities and not the qualities of an institution.

Community Integration and Individual Choice

Requirement: Full access to the greater community and meaningful individual choice

ADULT DAY CARE

Casey is deciding whether to attend a community art class that overlaps with the provider's on-site group activity.

SUPPORTS THE REQUIREMENT

Staff review the available options and supports with Casey, then help Casey attend the preferred community activity.

- Casey directs the choice.
- Transportation or other supports are considered.
- Participation occurs in an ordinary community setting.

PRACTICE TO AVOID

Staff require Casey to remain with the provider group because everyone follows the same activity schedule.

- The provider's routine determines the outcome.
- Individual interests are secondary to group convenience.
- Community access is unnecessarily limited.

PROVIDER TAKEAWAY: Community participation should reflect individual interests, not only provider-organized.

Choice and Control in Daily Life

Requirement: Autonomy and independence in making life choices

SUPPORTIVE LIVING RESIDENCE

Devon is deciding whether to join a provider-organized group outing or spend a quiet evening at home.

SUPPORTS THE REQUIREMENT

Staff support Devon's choice to remain home while assisting housemates who choose to attend the outing.

- Devon decides how to spend the evening.
- Supports accommodate different individual choices.
- Declining the outing carries no penalty.

PRACTICE TO AVOID

Staff require Devon to attend because transportation and staffing were planned for the whole household.

- The household plan overrides Devon's choice.
- Staff convenience determines participation.
- The routine becomes a blanket requirement.

PROVIDER TAKEAWAY: Provider routines should support individual choices rather than determine them.

Privacy and Dignity

Requirement: Privacy, dignity, respect, and freedom from coercion and restraint

PROVIDER-OWNED OR CONTROLLED RESIDENTIAL SETTING

Staff need to enter Jordan's bedroom for a routine maintenance task.

SUPPORTS THE REQUIREMENT

Staff knock, explain the reason for entry, and wait for Jordan's permission before entering.

- The bedroom is treated as private living space.
- Jordan controls access to the room.
- Staff conduct reflects dignity and respect.

PRACTICE TO AVOID

Staff enter without knocking or permission because the provider owns or operates the residence.

- Provider ownership is treated as unrestricted access.
- Jordan's control of private space is disregarded.
- Routine practice undermines dignity and privacy.

PROVIDER TAKEAWAY: Provider ownership does not eliminate the individual's right to privacy.

Autonomy and Individual Schedules

Requirement: Autonomy, independence, and control of daily activities

RESIDENTIAL COMMUNITY REINTEGRATION

People sharing a provider-operated residence have different work, recreation, and rest preferences.

SUPPORTS THE REQUIREMENT

Staff plan supports around each person's choices and allow people to opt out of group activities without penalty.

- Each person participates in planning.
- Supports follow individual preferences.
- Different schedules can coexist in the same home.

PRACTICE TO AVOID

Everyone must follow one schedule or attend the same outing because it is easier for staff.

- One routine is applied to the whole residence.
- Staff convenience replaces individual choice.
- Opting out is not meaningfully available.

PROVIDER TAKEAWAY: Provider routines should support individual schedules, not replace them.

Lease or Residency Agreement

Requirement: Legally enforceable agreement and housing protections

PROVIDER-OWNED OR CONTROLLED RESIDENTIAL SETTING

Avery reviews the housing agreement before moving into a provider-controlled residence.

SUPPORTS THE REQUIREMENT

The agreement explains costs, responsibilities, termination conditions, eviction protections, and appeal rights in an understandable format.

- A legally enforceable agreement is in place.
- Terms are understandable to Avery.
- Meaningful occupancy protections are included.

PRACTICE TO AVOID

The provider gives Avery only "house rules" and may discharge Avery without comparable notice or appeal protections.

- The document primarily lists provider expectations.
- Eviction protections are missing.
- Removal can occur without meaningful due process.

PROVIDER TAKEAWAY: The agreement must protect occupancy rights, not only list provider expectations.

Employment and Community Life

Requirement: Opportunities for competitive integrated employment and community participation

ADULT REHABILITATIVE DAY SERVICE: NON-RESIDENTIAL SETTING

Morgan identifies paid community employment as a personal goal.

SUPPORTS THE REQUIREMENT

Staff discuss Morgan's interests, connect Morgan with available employment supports, and reflect the choice in service planning.

- Morgan's interest directs the conversation.
- Available supports are identified.
- The goal involves ordinary community employment.

PRACTICE TO AVOID

Staff discourage employment because it disrupts the program schedule or offer only unpaid tasks inside the provider setting.

- The program schedule overrides the person's goal.
- Community employment is not meaningfully explored.
- Provider-site tasks are treated as the only option.

PROVIDER TAKEAWAY: Providers support exploration and informed choice; they do not decide the goal for the individual.

Meal and Food Access

Requirement: Freedom and support to control schedules and access food at any time

PROVIDER-OWNED OR CONTROLLED RESIDENTIAL SETTING

Taylor returns from a community activity after the provider's scheduled dinner period.

SUPPORTS THE REQUIREMENT

An appropriate meal remains available, and Taylor chooses when and where to eat.

- Food remains available outside a preset period.
- Taylor controls the timing of the meal.
- Access is supported based on individual needs.

PRACTICE TO AVOID

Taylor must wait until the next scheduled meal, or food storage is locked for everyone.

- A provider-wide schedule controls access.
- The restriction applies to the whole residence.
- Individual choice is unnecessarily limited.

PROVIDER TAKEAWAY: Any food restriction must be individualized and follow the modification process.

Meal Choice and Individual Preferences

Requirement: Autonomy, informed choice, and access to food

SUPPORTIVE LIVING RESIDENCE

Two people living in the same residence prefer different meals.

SUPPORTS THE REQUIREMENT

Staff provide information and support different choices within each person's resources and plan.

- Education supports decision-making.
- Preferences inform shopping and meal planning.
- Different choices are respected in one home.

PRACTICE TO AVOID

Staff choose food based only on staff beliefs or prohibit personal snacks without an individualized assessed need.

- Staff judgment replaces individual choice.
- One rule is applied to everyone.
- No individualized need supports the restriction.

PROVIDER TAKEAWAY: Guidance may be offered, but the individual remains central to the decision.

Visitors

Requirement: Visitors of the individual's choosing at any time

SUPPORTIVE LIVING RESIDENCE

Riley's friend wants to visit during the evening.

SUPPORTS THE REQUIREMENT

Riley welcomes the friend, chooses the visit time and location, and receives privacy in an appropriate area.

- Riley chooses the visitor.
- Riley chooses the timing.
- Non-restrictive safety procedures do not require approval.

PRACTICE TO AVOID

The provider requires permission, limits visits to posted hours, or requires every visit to occur in a common area.

- The provider controls who may visit.
- Blanket visiting hours replace individual choice.
- Privacy is unnecessarily limited.

PROVIDER TAKEAWAY: A provider procedure cannot become a blanket restriction on visitor choice.

Reverse Integration Does Not Equal Community Integration



Reverse Integration
Community members or activities are brought into the provider setting, while individuals continue to spend most of their time in a disability-specific environment.

Authentic Community Integration
Individuals access ordinary community places, activities, relationships, and resources based on their interests and preferences, with supports as needed.

PROVIDER TAKEAWAY

Bringing the community in may supplement, but does not replace, individualized access to the broader community.

Modifications

A residential condition may be modified only for a specific, individualized assessed need.

1. **ASSESSED NEED**
   Identify the specific and individualized assessed need.
2. **POSITIVE SUPPORTS**
   Document positive interventions and supports used first.
3. **LESS INTRUSIVE METHODS**
   Document methods tried and why they did not work.
4. **PROPORTIONATE CONDITION**
   Describe a condition directly proportionate to the need.
5. **DATA REVIEW**
   Collect and review data on effectiveness.
6. **TIME LIMITS**
   Set periodic reviews to continue, reduce, or end the condition.
7. **INFORMED CONSENT**
   Document the individual's informed consent.
8. **NO HARM**
   Assure that interventions and supports will cause no harm.

A modification is not a provider-wide rule and cannot be used solely for staff convenience.

Modification Example: Leaving the Setting Safely

The response must be individualized, documented, and no more restrictive than necessary.

Requirement: Visitors of the individual's choosing at any time

PROVIDER-OWNED OR CONTROLLED RESIDENTIAL SETTING

An individual has a documented pattern of leaving the setting and entering traffic without recognizing danger.

INDIVIDUALIZED MODIFICATION

The team documents the assessed need, tries positive and less intrusive supports, and uses a time-limited individualized safety plan.

- Applies only to the individual need.
- Directly proportionate to the identified risk.
- Includes consent, data review, and periodic reassessment.

BLANKET RESTRICTION

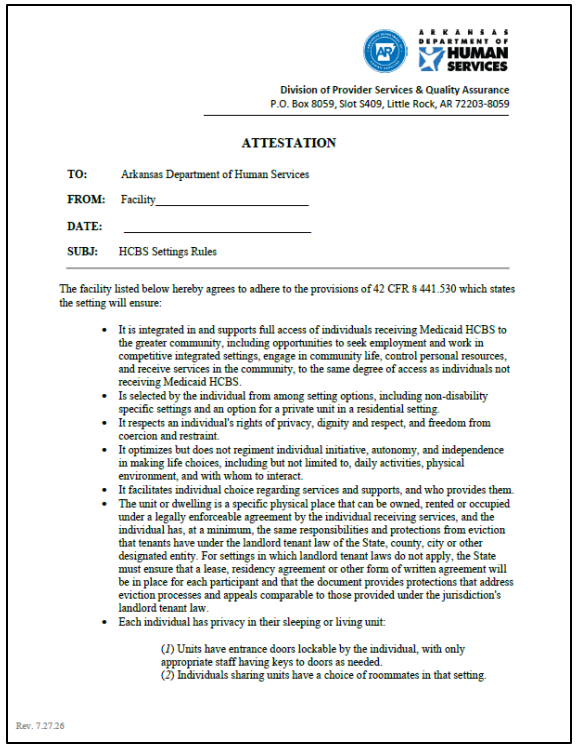
The provider locks exterior doors for every resident or requires everyone to obtain staff permission before leaving.

- Applies to people without the assessed need.
- Limits autonomy across the residence.
- Uses a general rule instead of person-centered documentation.

PROVIDER TAKEAWAY: A safety concern may justify an individualized condition, but not a blanket restriction for everyone.

HCBS Settings Rules Attestation

The Division of Provider Services & Quality Assurance (DPSQA) requires all HCBS and CSSP Providers to attest and sign an attestation.



ARKANSAS DEPARTMENT OF HUMAN SERVICES

Division of Provider Services & Quality Assurance
P.O. Box 8059, Slot S409, Little Rock, AR 72203-8059

ATTESTATION

TO: Arkansas Department of Human Services

FROM: Facility_____

DATE: _____

SUBJ: HCBS Settings Rules

The facility listed below hereby agrees to adhere to the provisions of 42 CFR § 441.530 which states the setting will ensure:

- It 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.
- 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.
- It respects an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.
- It 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.
- It facilitates individual choice regarding services and supports, and who provides them.
- The unit or dwelling is a specific physical place that can be owned, rented or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord tenant law of the State, county, city or other designated entity. For settings in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each participant and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.
- Each individual has privacy in their sleeping or living unit:

  (*1*) Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors as needed.
  (*2*) Individuals sharing units have a choice of roommates in that setting.

Rev. 7.27.26

How to complete your attestation:

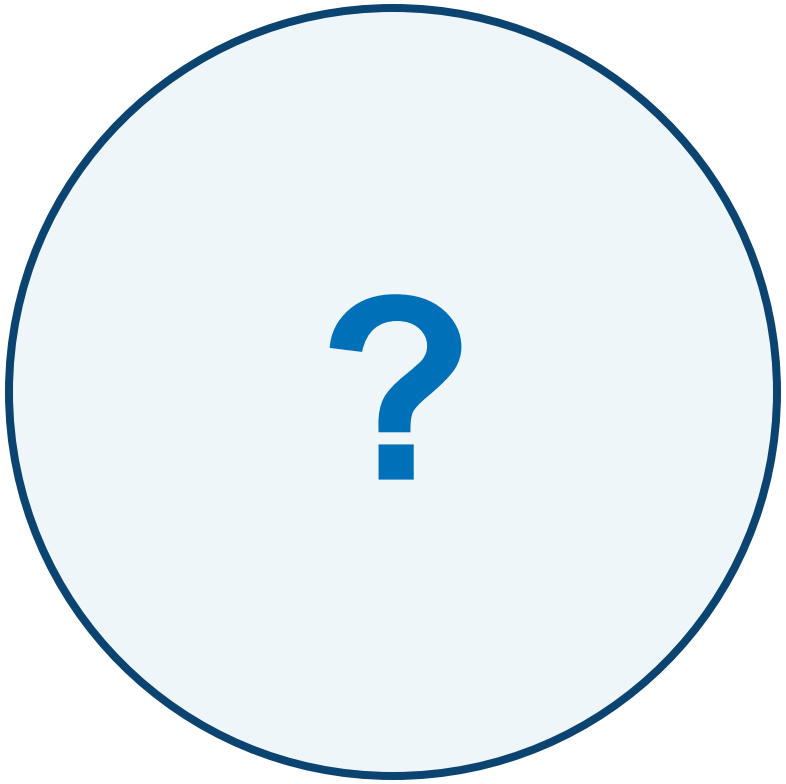
- For HCBS and CSSP certification and licensing applicants the attestation is part of your initial application process.
- For current HCBS and CSSP providers starting January 1st, 2027 you will attest annually.
  - The attestation will be made available for completion.
  - The attestation must be completed by or during a provider's annual inspection.

For HCBS Providers a Person-Centered Plan, Coercion and Restraint, and a Locks Attestation are all required.

Resources

- https://humanservices.arkansas.gov/newsroom/hcbs/
- https://humanservices.arkansas.gov/divisions-shared-services/provider-services-quality-assurance/how-to-become-a-provider-licensing-and-requirements-and-processes/preparing-for-licensure-certification/
- https://humanservices.arkansas.gov/divisions-shared-services/provider-services-quality-assurance/information-for-providers/hcbs-setting-rules/
- https://humanservices.arkansas.gov/newsroom/hcbs/

Questions



We care. We act. We change lives.



ARKANSAS
DEPARTMENT OF
HUMAN
SERVICES