

AHDC Guidance - HCBS Compliance

Below you will find general guidance from the Centers for Medicare and Medicaid Services (CMS) as it relates to HCBS compliance, some specifically for non-residential settings which includes Adult Day Cares/Adult Day Health Cares. Links to each document are provided below and can also be found at the [HCBS Provider web page](#).

CMS' "Questions and Answers" on 1915(c) HCBS Waivers, CMS 2249-F and 2296-F

<https://www.medicaid.gov/medicaid-chip-program-information/by-topics/long-term-services-and-supports/home-and-community-based-services/downloads/final-q-and-a.pdf>

"CMS is committed to ensuring that individuals served in Medicaid home and community-based programs have access to the benefits of community living and have full opportunity to be integrated in their communities." (Pg. 3, #10)

On person-centered planning, "The expectations set forth in this final rule emphasize that **individuals** are most knowledgeable about their services needs and the optimal manner in which services are delivered." (Pg. 4, #13, emphasis added)

"Guidance on Settings that have the effect of Isolating Individuals Receiving HCBS from the Broader Community"

<https://www.medicaid.gov/medicaid-chip-program-information/by-topics/long-term-services-and-supports/home-and-community-based-services/downloads/settings-that-isolate.pdf>

Settings that have the following two characteristics alone might, but will not necessarily, meet the criteria for having the effect of isolating individuals:

- The setting is designed specifically for people with disabilities, and often even for people with a certain type of disability.
- The individuals in the setting are primarily or exclusively people with disabilities and on-site staff provides many services to them.

Settings that isolate people receiving HCBS from the broader community may have any of the following characteristics:

- People in the setting have limited, if any, interaction with the broader community.

"Exploratory Questions to Assist States in Assessment of Non-residential Home and Community-Based Service (HCBS) Settings"

<https://www.medicaid.gov/medicaid-chip-program-information/by-topics/long-term-services-and-supports/home-and-community-based-services/downloads/exploratory-questions-non-residential.pdf>

The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community [42 CFR 441.301(c)(4)(i)]

- Does the setting provide opportunities for regular meaningful non-work activities in integrated community settings for the period of time desired by the individual?

- Does the setting afford opportunities for individual schedules that focus on the needs and desires of an individual and an opportunity for individual growth?
- Does the setting afford opportunities for individuals to have knowledge of or access to information regarding age-appropriate activities...outside of the setting, and who in the setting will facilitate and support access to these activities?
- Does the setting encourage visitors or other people from the greater community (aside from paid staff) to be present, and is there evidence that visitors have been present at regular frequencies?
- Does the setting provide individuals with contact information, access to and training on the use of public transportation, such as buses, taxis, etc., and are these public transportation schedules and telephone numbers available in a convenient location?
- Does the setting assure that tasks and activities are comparable to tasks and activities for people of similar ages who do not receive HCB services?

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)]

- Is all information about individuals kept private? For instance, do paid staff/providers follow confidentiality policy/practices and does staff within the setting ensure that, for example, there are no posted schedules of individuals for PT, OT, medications, restricted diet, etc., in a general open area?

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)]

- Does the setting afford a variety of meaningful non-work activities that are responsive to the goals, interests and needs of individuals? Does the physical environment support a variety of individual goals and needs (for example, does the setting provide indoor and outdoor gathering spaces; does the setting provide for larger group activities as well as solitary activities; does the setting provide for stimulating as well as calming activities)?
- Does the setting afford opportunities for individuals to choose with whom to do activities in the setting or outside the setting or are individuals assigned only to be with a certain group of people?
- Does the setting post or provide information on individual rights?

The setting facilitates individual choice regarding services and supports, and who provides them. [42 CFR 441.301(c)(4)(v)]

- Does setting policy ensure the individual is supported in developing plans to support her/his needs and preferences? Is setting staff knowledgeable about the capabilities, interests, preference and needs of individuals?