

Final Settings Rule Overview

Provider Meeting

July 26, 2023

Final Settings Rule

- Federal Law created in 2014
- Applicable to all settings providing services that are Home and Community Based
- Transition period to get all settings into compliance with expectations
 - Extensions
 - Amount of work to be done
 - Public Health Emergency
- Statewide Transition Plan
 - Initial approval
 - Final approval
- Final deadline for compliance – March 17, 2023*

*see slide#13 for the limited areas for which there is a Corrective Action Plan

NH's Approach

- Collaborative approach
- Advisory Task Force
 - Stakeholder group to support the process
- Waiver Transition Team
 - Oversee the work
 - Partner with CMS

Statewide Transition Plan

- Components of the plan include:
 - Baseline status of compliance
 - Regulatory review
 - Goals for ensuring all settings meet the requirements
 - Monitoring systems to ensure ongoing compliance
- Located on DHHS website

Expectations

1) “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 Services.

Expectations

- 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 setting options are identified and documented in the person-centered service plan and are based on the individual’s needs, preferences, and, for residential settings, resources available for room and board.”
- 3) “Ensures an individual’s rights of privacy, dignity and respect, and freedom from coercion and restraint”

Expectations

- 4) “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.”
- 5) “Facilitates individual choice regarding services and supports, and who provides them”

Additional Expectations

- 1) “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 HCBS participant, and that the document **provides protections** that address eviction processes and appeals comparable to those provided under the jurisdiction’s landlord tenant law.”

Expectations

2) “Each individual has privacy in their sleeping or living unit:

- Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors
- Individuals sharing units have a choice of roommates in that setting
- Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement”

Expectations

- 3) “Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time”
- 4) “Individuals are able to have visitors of their choosing at any time”
- 5) “The setting is physically accessible to the individual”

Requirements for any changes

6) “Any modification of the additional conditions specified in items 1 through 4, must be supported by a specific assessed need and justified in the person-centered service plan. The following requirements must be documented in the person-centered service plan:

- Identify a specific and individualized assessed need
- Document the positive interventions and supports used prior to any modifications to the person-centered plan
- Document less intrusive methods of meeting the need that have been tried but did not work
- Include a clear description of the condition that is directly proportionate to the specific assessed need
- Include regular collection and review of data to measure the ongoing effectiveness of the modification
- Include established time limits for periodic reviews to determine if the modification is still necessary or can be terminated
- Include the informed consent of the individual
- Include an assurance that interventions and supports will cause no harm to the individual”

Service Agreement	Created a statewide template and included items related to the Final Settings Rule
Quarterly Satisfaction Survey	Added questions regarding community access and employment to be able to monitor if expectations are being met
Training	Offered trainings: <ul style="list-style-type: none"> * HCBS Expectations * Certification and the Final Settings Rule * Heightened Scrutiny Process * HCBS Expectations Train the Trainer * HCBS and the Service Agreement
Certification Tool	Updated the certification survey tool to include HCBS expectations. <ul style="list-style-type: none"> * Year of education – no deficiencies for not having locks on bedroom doors * Year to implement lock requirement and became part of deficiency process
Potential Heightened Scrutiny Reviews	Completed potential heightened scrutiny reviews with a focus on licensed settings
Re-assessment Process	Provider Self-Assessments focused on HCBS compliance
He-M 310 Update	Updated He-M 310 and included Residency Agreement

Current Focus Areas

Corrective Action Plan (CAP)

Residency Agreement

Rights Booklet/Training

Access to the community



Monitoring of settings for ongoing compliance

Processes

Data collection

Reporting

QUESTIONS?