

Home and Community Based Service Settings Rule¹

What is it?

In 2014, the Centers for Medicare & Medicaid Services (CMS) finalized a rule that established new requirements for the settings in which individuals receiving HCBS services are delivered. Under the rule, States must develop plans and determine if providers meet the requirements. The rule emphasizes that individuals must have a *choice* in setting options and that these settings are:

- Are integrated in, and support full access to the greater community;
- Ensure individual rights of privacy, dignity, and respect, and freedom from coercion and restraint;
- Optimize individual autonomy and independence in making life choices; and
- Facilitate choice regarding services and who provides them

The final rule includes additional requirements for *agency owned or controlled residential settings* with respect to lease agreements (or similar protections), privacy, autonomy, and physical accessibility. Any modification to the additional requirements for provider owned or controlled HCBS residential settings must be supported by a specific assessed need and justified in the person-centered plan.

When do States Need to be in Compliance?

In response to the COVID 19 Pandemic, CMS has extended the deadline for ensuring compliance with HCBS settings regulation to March 17, 2023.

What has the State done to comply?

In 2015, the State submitted a transition plan to CMS that described how it would assess HCBS settings and how non-compliant settings would be brought into compliance. In 2017, the Developmental Disabilities Services Division (DDSD) issued a Developmental Provider Self-Assessment to serve as a tool to help agencies identify areas where action must be taken in order to achieve full compliance. The State completed on-site validation of a sample of settings where people received their HCBS by 9/30/19. If there was an indication of non-compliance with the setting requirements in either the self-assessment or on-site visits, the provider was required to submit a plan of correction. All plans of correction must be completed by 3/17/23. It is anticipated that all the providers will be able to come into compliance by that date. Ongoing monitoring of compliance has been incorporated into the DDS Quality Review Process for providers. For more details on the State's transition plan for compliance with the HCBS setting rules, see

<https://dvha.vermont.gov/sites/dvha/files/documents/Administration/VT%20GC%20STP%20CQS%20CMS%20Submission%20October%2011%2C%202021.pdf> .

Where to from here?

Vermont's Statewide Transition Plan has been granted initial approval by CMS. The State will continue to work with providers in establishing full compliance with the rule. Further state policy guidance is needed related to the requirement for people to be able to lock the door to their private space in the home and

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for tenancy agreements to protect people from untimely or arbitrary evictions. DDSD will be working with stakeholders to finalize those policies.

Where can I find out more information on the HCBS Setting Requirements?

Click on this link for more information [§ 441.530](#)