

HCBS Settings Rule

Workshop 4: Day Services, Service Plans, Setting Selection & Staff Selection

SC DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS

MAY 16, 2018

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Introduction

In 2014, the CMS issued the HCBS “Settings Rule”

- Code of Federal Regulations (including 42 C.F.R. § 441.301)

All States are required to fully comply by March 17, 2022.

- DHHS and DDSN have worked toward full compliance since 2014.

This presentation provides responses to issues raised by providers and other stakeholders in recent webinars/meetings.

17 Issues To Address Through Workshops

*bold denotes priority issues

- 1. Autonomy
- **2. Co-Location**
- 3. Day Services
- 4. DOL Posters
- **5. Food**
- 6. House Rules
- 7. Keys
- **8. Lease**
- 9. Money
- 10. Person-Centered Planning
- 11. Programmatic Mitigation
- 12. Service Plans
- 13. Setting Selection
- 14. Site-Specific Assessment
- 15. Staff Selection
- **16. Visitors**
- **17. Compliance Action Plan Completion**

Scheduled Workshops

- | | |
|-------------------------|---|
| 1. May 7, 2018 10:00 AM | Food and Visitors |
| 2. May 9, 2018 10:00 AM | Leases and Money |
| 3. May 14, 10:00 | Keys
DOL Posters
Person-Centered Planning
Autonomy |
| 4. May 16, 10:00 | Day Services
Service Plans
Setting Selection
Staff Selection |
| 5. TBD 10:00 | Compliance Action Plan Completion |

Training Currently In Development

- Human Rights Committee Training on HCBS Settings Rule
- Training for Parents and Community – Partnering with Able SC and Family Connection
- Individual Rights and Responsibilities Training
- Board of Directors Training on HCBS Settings Rule
- Person-Centered Thinking Training/Materials

Philosophy

HCBS Settings Rule is built on a person-centered/community integration philosophy and aims to improve the life experiences of those receiving waiver services.

- **Person-centered philosophy** promotes the belief that people with disabilities are people first; they have the same rights as people without disabilities. As people, through listening and discovering, each person can help those around him/her learn how they want to live and what supports are needed to help them move toward a life they consider meaningful and productive.
- **Community integration philosophy** promotes the belief that every person deserves an opportunity to live, work and play in a community of his/her choice and in a way that reflects his/her own vision for life. People should be supported to optimize their personal, social, and vocational competency to live successfully in the community.

Health and Safety

The HCBS Settings Rule's general default is to maximize individuals' access to their own home and their community in ways that are meaningful to them.

The HCBS Settings Rule may create challenges for providers as they learn to manage what is important to the person, what is important for the person and the proper balance between the two.

Providers must be aware that HCBS Settings Rule compliance can be obtained without jeopardizing the health and safety (important for) of individuals. Some individuals may require restrictions due to the assessed impact of their disability on their everyday access.

Setting “Qualities”

The HCBS Settings Rule specifies that Home and Community-based Settings are required to have certain “qualities.” Examples of those “qualities” **include, but are not limited to:**

- “Facilitates individual choice regarding services and supports, and who provides them.”
- “Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.”
- “Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time.”

The required “qualities” may only be modified on an individual basis when supported by a specific assessed need and justified in the person’s plan.

Modifications should be focused on the health and welfare of the person.

Modification of Required Quality

When a modification of a required “quality” is necessary, the following must be present:

- (1)*** Identification of a specific and individualized assessed need.
- (2)*** Documentation of the positive interventions and supports used prior to any modifications to the person-centered service plan.
- (3)*** Documentation of less intrusive methods of meeting the need that have been tried but did not work.
- (4)*** Inclusion of a clear description of the condition that is directly proportionate to the specific assessed need (i.e., the modification is in line with the need).

Modification of Required Quality (Cont.)

(5) Inclusion of regular collection and review of data to measure the ongoing effectiveness of the modification.

(6) Inclusion of established time limits for periodic reviews to determine if the modification is still necessary or can be terminated.

(7) Inclusion of the informed consent of the individual.

(8) Inclusion of an assurance that interventions and supports will cause no harm to the individual.

Additional requirements are noted in DDSN Directive 532-02-DD: Human Rights Committee

Day Services

The HCBS Settings Rule requires that **all** home and community-based settings meet certain qualifications. Including that the setting:

Is integrated in and supports full access to the greater community;

Is selected by the person from among setting options;

Ensures individual rights of privacy, dignity and respect, and freedom from coercion and restraint;

Optimizes autonomy and independence in making life choices; and

Facilitates choice regarding services and who provides them.

Day Services

The setting is integrated in and supports full access 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 those not receiving Medicaid waiver services.

Day Services: Exploratory Questions

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

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 allow individuals the freedom to move about inside and outside of the setting as opposed to one restricted room or area within the setting?

Day Services: Exploratory Questions

Is the setting in the community/building located among other residential buildings, private businesses, retail businesses, restaurants, doctor's offices, etc. that facilitates integration with the greater community?

Do employment settings provide individuals with the opportunity to participate in negotiating his/her work schedule, break/lunch times, etc.?

Does the setting assure that tasks and activities are comparable to tasks and activities for people of similar ages who do not receive waiver services?

Day Services: Exploratory Questions

Is the setting physically accessible, including access to bathrooms and break rooms, and are appliances, equipment, and tables/desks and chairs at a convenient height and location, with no obstructions such as steps, lips in a doorway, narrow hallways, etc., limiting individuals' mobility in the setting? If obstructions are present, are there environmental adaptations such as a stair lift or elevator to ameliorate the obstructions?

Day Services: Promising Practices

Activities are planned with input from the participants rather than chosen by staff.

Participants are supported to achieve their employment and/or volunteer goals.

Participants are supported to learn job skills, develop resumes and practice completing job applications.

Participants are supported in achieving academic goals and greater independence to transition from the HCBS programs.

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Day Services: Exploratory Questions

Do the setting options include the opportunity for the person to choose to combine more than one service delivery setting or type in any given day/week (e.g. combine Employment Services with Community Services)?

Day Services

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Day Services: Exploratory Questions

Is all information about individuals kept private?

Does the setting assure that staff interact and communicate with individuals respectfully and in a manner in which the person would like to be addressed?

Does staff refrain from talking to other staff about an individual(s) in the presence of other persons or in the presence of the individual as if s/he were not there?

Does the setting offer a secure place for the individual to store personal belongings?

Day Services: Promising Practices

Participants receive training on rights; rights information is posted in an area easily accessible to the participant.

No rights are restricted without due process and a plan to clearly restore the right.

Participants freely express complaints without fear of staff imposed consequences.

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Day Services

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.

Day Services: Exploratory Questions

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?

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 afford the opportunity for tasks and activities matched to individuals' skills, abilities and desires?

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Day Services: Exploratory Questions

Does the setting ensure individuals are supported to make decisions and exercise autonomy to the greatest extent possible?

Does the setting afford the individual with the opportunity to participate in meaningful non-work activities in integrated community settings in a manner consistent with the individual's needs and preferences?

Are staff knowledgeable about the capabilities, interests, preference and needs of individuals?

Do individuals actively participate in choosing who they want to work with/deciding their staff person?

Service Plans

There are currently three types of service plans in South Carolina.

1. Support Plan

- Completed by the case manager following an assessment of the person's strengths, needs and preferences.
- Identifies the specific needs of the person, and the services/supports necessary to address the person's medical, social, educational and other service needs including the HCBS Waiver services to be delivered along with the duration, frequency and type of provider who will render the services.

Service Plans

2. Residential Services Plan

The purpose of this plan is to actively solicit the person's interests and life goals. The person's preferences and goals must be the focus of the planning process.

Each waiver participant must have a residential plan which is:

- “Developed within 30 days of admission to the setting.
- Implemented within 10 working days of development.
- Re-developed every 365 days.”

Service Plans

3. Employment/Day Services Plan

“Includes essential information to ensure appropriate services and supports are in place to assure health, safety, supervision and rights protection of waiver participants in day programs and services.”

Will we have only one plan in the future?

At this time there are no plans combine the three plans into one plan.

Consideration is being given to how those things that are important to and important for the person can be shared among service providers and incorporated into planning.

Setting Selection

HCBS Rule

“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.”

Department of Health and Human Services, CMS (2014)

Setting Selection

DDSN Standard

“Individuals choose where they live from a variety of options. The person’s preferences must be actively solicited on an on-going basis and results documented in service notes/residential summary of progress. On-going basis means that at a minimum, on a quarterly basis, service notes/residential summary of progress, should contain documentation that the preferences/wishes/desires for how, where and with whom they live are learned from the person and that those preferences/wishes/desires are acted upon whenever possible within the resources of the person/provider.”

DDSN Residential Habilitation Standards

Setting Selection

Implications

Waiver participants have the right to choose where they live from among a variety setting options available, including settings that are not waiver-funded.

Waiver participants may make this decision based on any parameters that they choose, including but not limited to preference of location, roommate, housemate, and proximity to family and friends.

Waiver participants may also make new decisions as to where to live as many times as they would like. Setting selection is to be specifically addressed on an on-going basis as part of the plan.

Staff Selection

HCBS Settings Rule:

Providers must facilitate “individual choice regarding services and supports, and who provides them.”

- This provision gives choice over of selection of staff to the individual waiver participant.
- This right must be fully supported by the setting provider.

Staff Selection

Additional Guidance

“If an individual is unhappy with a provider’s service, the provider should first try to understand why the individual is unhappy. If it’s something that can be corrected or easily addressed, that’s always a good first step.”

Next HCBS Workshop

TBD 10:00

Compliance Action Plan Completion

Workshop Slides and Q and A Response Postings

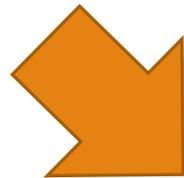
<http://www.ddsn.sc.gov/QualityManagement/Pages/HomeandCommunityBasedServicesSettingsRule.aspx>

[Relocation Stress Syndrome](#)

[South Carolina HCBS Summary of Findings](#)

[AUTONOMY, EMPOWERMENT & SUPPORTED DECISION-MAKING](#)

[FAIR TREATMENT: HOW CAN WE SUPPORT THIS OUTCOME?](#)



HCBS IMPLEMENTATION RESOURCES:

- [HCBS ANSWERS TO PROVIDER QUESTIONS](#)
- [HCBS ANSWERS TO PROVIDER QUESTIONS HR Food Visitors](#)

THE END

Questions? Comments? Concerns?

Please contact:

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