



HOME-AND COMMUNITY-BASED SERVICES SETTINGS RULE

INFORMATION FOR INDIVIDUALS & FAMILIES

BACKGROUND

Home-and Community-Based Services are commonly known as waivers. Waivers provide opportunities for individuals to receive services and supports in their own home and community by maximizing access to the benefits of community living and receiving supports in the most integrated setting.

All states providing waiver services are required to follow and abide by federal laws and regulations set by the Centers for Medicare and Medicaid Services. In 2014 CMS issued new rules about the HCBS waiver services and supports that states must follow to continue to provide HCBS waivers to people with disabilities. This new rule is referred to as the settings rule. In the settings rule CMS clarified expectations about person-centered planning and the things that need to happen when HCBS waivers are administered. This includes where and how support is given.

The Indiana Bureau of Developmental Disabilities Services administers the Family Supports Waiver and the Community Integration and Habilitation Waiver to support people with intellectual and developmental disabilities and their families live their best life.

WHAT IS THE HCBS SETTINGS RULE?

It's all about you! The HCBS settings rule is about ensuring your rights, choices, options and opportunities while living in your home and participating in your community.

The rules say that people receiving HCBS deserve the opportunity to:

- live in the places they want to live and can afford;
- find and keep good jobs;
- be in charge of their own lives;
- choose how they want to be helped and select which supports and services they want or need;
- choose who will help them; and
- be part of their community and live life the way they want to live.

The HCBS settings rule requires these rights for people with disabilities who are receiving waiver services:

- you have a right to privacy
- you have a right to make choices
- you have a right to choose where you get help and services

- you have a right to be around other people in your community
- you have a right to do the same things in the community that everyone else does
- you have a right to do things in the community with people who do not have a disability
- you have a right to get a job working with people who do not have a disability

When you live in a home that your HCBS waiver provider owns or controls, the HCBS settings rule says you should have opportunities to:

- to be in charge of the things that belong to you including your money
- be in charge of your schedule and what you do each day
- decide what to eat and when to eat
- have visitors when you choose
- to get to all areas of your home
- to leave your home and get back inside
- decorate your room and personal space the way you want to
- choose your roommates if you share your home
- have a lock on your door and have your own key
- continue living in your home until your lease ends (unless there is a legal reason requiring you to move out sooner)

WHY IS BDDS MAKING CHANGES RELATED TO THE HCBS SETTINGS RULE?

For Indiana to receive the necessary funds to operate our waiver services we are required to follow the rules and regulations set by CMS for home-and community-based services. We have until March 2023 to fully comply with the settings rule.

WHAT DOES THE HCBS SETTINGS RULE MEAN TO YOU?

Nothing about you without you! The HCBS settings rule says that you and your legal guardian/representative, if you have one, should direct any plans that are about you. The plan must include what is important to you and how you would like to be supported. This is achieved by leading your team to the greatest extent possible in discussions and decisions that affect you.

The HCBS settings rule also says that the team of people you choose will help you make plans to live the life you want to live. Your team and the people who help you must get to know you. Your team must learn you and the things that are important to you. They are there to assist you in setting goals and making choices that are meaningful to you.

HOW DOES THE HCBS SETTINGS RULE IMPACT YOUR SERVICES?

The HCBS settings rule was developed to ensure that individuals who are using waiver services have the same rights in their home and access to the greater community as individuals who do not have a disability. You and your legal guardian/representative, if you have one, will continue to choose which HCBS waiver services and supports you will receive and who will provide them. This will be reflected in your Person-Centered Individualized Support Plan. If you live in a home that is owned and controlled by your provider, you will notice additional questions on your PCISP that relate specifically to the settings rule. This is to ensure that the rights and protections afforded to you under this rule are being considered.

CAN A WAIVER BE USED IN SPECIALIZED COMMUNITIES, APARTMENT COMPLEXES OR OTHER TYPES OF LIVING ARRANGEMENTS THAT ARE SPECIFICALLY FOR PEOPLE WITH DISABILITIES?

The settings rule was written to protect individual choice and promote community integration for people receiving HCBS services. When determining if a setting meets the settings rule, BDDS will look at the characteristics of the setting to determine compliance. The rule says this about HCBS settings:

The 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 HCBS.

WHAT'S THE DIFFERENCE BETWEEN A WAIVER HOME AND A SUPERVISED GROUP LIVING HOME OR INSTITUTION?

A waiver home simply means that people who live in the home access waiver services. People receiving HCBS waivers typically live with their family, in their own home or share a home with roommates. They are responsible for paying for their housing costs such as rent, utilities and food therefore it is their home. Indiana Code allows for up to four individuals with disabilities to live in one home together while accessing waiver services. Each person living in the home and on a waiver may have a different daily schedule based on their person-centered plan, individual needs, desires and outcomes. People on a waiver choose which state-approved provider they want to use for each waiver service.

Supervised Group Living settings, also known as group homes, are considered by CMS to be institutional settings. Each SGL must be licensed by the Indiana Department of Health and approved by the Bureau of Developmental Disabilities Services. SGLs are owned by the service provider. The rules and regulations for SGL are different than those for HBCS waiver. For example, in Indiana, as many as eight people can live together in one SGL. In the SGL, the days, and activities of one person may be very similar to the days and activities of other people living in that licensed home.

DOES THE STATE PLAN TO FORCE INTEGRATION?

No, but compliance with the rule is not optional. This may result in people choosing a different place to live. States must ensure that each person receiving HCBS is presented with the potential options when choosing a home-and community-based setting so he or she is making an informed choice about where to live. Settings that isolate people from their communities are not considered to be compliant with the rule. It is recognized that forcing people to live in any setting against their will could result in further segregation by inhibiting or limiting integration and participation in the community.

The rule says this about informed choice that must be reflected in the person-centered service plan:

Reflect that the setting in which the individual resides is chosen by the individual. The state must ensure that the setting chosen by the individual 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.

WHAT IS TRUE COMMUNITY INTEGRATION SUPPOSED TO LOOK LIKE?

The intent of the rule is that people receiving HCBS waivers have choice in where to live, opportunities to seek employment and work in competitive integrated jobs, have control of their resources, and have the option to participate in activities of their choosing. True community integration involves more than just going into the community or living at a certain address – integration is being a valued part of, taking part in, and contributing to that community while interacting with people with and without disabilities. We're all unique. Integration leads to true inclusion through the development of social connections which lead to the acceptance of others despite our differences. The rule emphasizes access to and integration in the community so that people receiving HCBS waivers have the opportunity to live the life they want to live, just like everyone else.

WHAT IS INDIANA WORKING ON RIGHT NOW?

At this time, the Division of Disability and Rehabilitative Services and its Bureau of Developmental Disabilities Services are working with waiver providers and reviewing their written plans describing changes that are needed to be sure we are all following the new HCBS rules.

Indiana has a Statewide Transition Plan describing the plans and changes Indiana needs to make following the new HCBS rules. Each time changes are made, the STP is posted on the DDRS website where you can see the past and most recent version. An announcement is made identifying the time frame for public comment on the most current version along with directions on how to submit your comments and suggestions. The opportunity for public comment usually lasts 30 days.

HOW CAN I FIND OUT MORE ABOUT THE HCBS SETTINGS RULE, THE STATEWIDE TRANSITION PLAN, AND OPPORTUNITIES FOR PUBLIC INPUT?

More information and all versions of the Statewide Transition Plan can be found at <https://www.in.gov/fssa/ddrs/4917.htm>.

You can sign up to receive DDRS announcements by visiting <https://public.govdelivery.com/accounts/INFSSA/subscriber/new>.

You can sign up for INvision, the DDRS newsletter for families and self-advocates by visiting <https://www.in.gov/fssa/ddrs/5493.htm>.

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Questions may be emailed to BQIS.Help@fssa.in.gov