



**The Home and Community Based Services Settings Rule:
Strong Support from People with Disabilities and Older Adults**

The HCBS advocacy coalition is a group of national disability and aging advocacy organizations (representing hundreds of state and local affiliates) that joined together to work with the federal government, states, and stakeholders across the country to ensure successful implementation of the Home and Community Based Services (HCBS) Settings Rule and the availability of high-quality HCBS to all people with disabilities and older adults. Our broad Coalition includes groups that represent families, people with disabilities themselves, the aging community, and providers. Our perspectives about the Rule are based on working with thousands of stakeholders across the country from the disability and aging communities. **Each of our organizations and the stakeholders we represent strongly support community inclusion for ALL individuals with disabilities and older adults.**

The HCBS Settings Rule, released by the Centers for Medicare & Medicaid Services (CMS) in January 2014, requires that Medicaid-funded HCBS programs be faithful to the original intent of the program and support settings that maximize opportunities to live, work and receive services in integrated, community settings where people with disabilities and older adults can fully engage in community life. In so doing, the Rule defines minimum standards for residential and non-residential settings to be considered “home and community-based.” The purpose and impact of the Rule is to ensure that individuals receiving HCBS have full access to the benefits of community living; to enhance the quality and availability of HCBS; and to provide basic protections to participants.

Significant components of the HCBS Settings Rule include:

- Ensuring that HCBS settings provide people with disabilities and older adults access to the broader community and facilitate relationships with people without disabilities who are not paid to be in their lives.
- Ensuring that HCBS settings provide people with disabilities and older adults with real autonomy, truly individualized supports, and meaningful control over daily life decisions and personal relationships; with choices about what services they receive and who provides them; and, for working-age people with disabilities, with opportunities for competitive integrated employment.
- Assisting states with meeting their obligation under the Americans with Disabilities Act and the Supreme Court’s decision in *Olmstead v. L.C.* to provide services in the most integrated setting, defined as settings where people with disabilities have opportunities to interact with people without disabilities to the fullest extent possible.
- Providing states with an extended period until March 2022 to plan and transition their existing disability and aging systems into compliance with these new standards.

As more and more people have chosen to live in the community rather than in institutions over the last several decades, state HCBS systems have greatly expanded. The HCBS Settings Rule reflects the best practices that states have developed and the services they are working to expand.

- The Rule ensures the accountability of HCBS dollars. Prior to the Rule establishing minimum standards, federal Medicaid dollars earmarked for HCBS frequently went to settings that were virtually indistinguishable from institutions (even though institutional settings are eligible for their own separate funding streams).
- The Rule codifies critical rights for people receiving HCBS. These include adequate access to quality services and protections, meaningful control over daily life decisions, and ample opportunities to access the broader community.
- The Rule is flexible to various types of settings that meet minimum standards. It neither sets size limits for settings nor prohibits disability-specific settings (like group homes). Instead any HCBS setting must satisfy basic standards and protections around autonomy, access to food and visitors, and opportunities to engage with the broader community.
- The Rule has broad support from people with disabilities, older adults, their families, and advocate communities. As a product of thousands of public comments reflecting a wide range of perspectives gathered over more than five years of a robust rulemaking process, the Rule is another important step in the movement towards full inclusion of people with disabilities, consistent with bipartisan federal laws like the Americans with Disabilities Act.

The Rule expands choices for people with disabilities of all ages by expanding the range of HCBS available and ensuring that individuals in these settings have true access to the community.

- The Rule requires that HCBS participants have a choice of not only settings specifically for people with disabilities but also a “non-disability specific setting” option. This standard will expand the types of services that most people want but may still not be available in some states – particularly for people with the most significant disabilities and those in rural areas.
- Some have misconstrued the Rule’s requirements about choice. The Rule clearly allows people to choose disability-specific settings, like group homes and day programs. However, every qualified setting – disability-specific or not – must facilitate access to the broader community and individual control over daily activities. Moreover, a participant can still opt to receive institutional services, but those services cannot be funded using limited HCBS dollars.
- The Rule centers on choice and autonomy. The Rule focuses almost entirely on ensuring that people receiving HCBS are able to make the same choices as everyone else, like the choice of who they live with, when they eat or visit with friends and family, and how they spend their day.

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