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# HCBS Settings Webinar

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**October 4, 2022**

# Purpose

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- The purpose of this webinar is to provide information about the federal HCBS Settings Rule and upcoming assessment process for adult foster care (AFC) providers in the STAR+PLUS HCBS program.



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# Agenda

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- Overview of HCBS Settings Rule
- Upcoming Assessment Process
  - Provider Self-Assessment
  - Virtual Visit with HHSC Staff
- Assessment Timeline
- Next Steps/What to Expect
- 10-Minute Break
- Q&A Session





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# HCBS Settings Rule

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# Background

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- The Centers for Medicare & Medicaid Services (CMS) issued federal regulations governing settings where Medicaid home and community-based services (HCBS) are provided.
  - These regulations are collectively referred to as the HCBS Settings Rule.
  - The HCBS Settings Rule applies to AFC settings in the STAR+PLUS HCBS program.
- CMS has given states until March 17, 2023, to ensure all Medicaid HCBS providers comply with the HCBS Settings Rule.



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# Overview

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- The HCBS Settings Rule requires that a Medicaid HCBS setting support a person's full access to the community.
- This includes opportunities to:
  - Engage in community life
  - Work in competitive integrated settings
  - Control personal resources

[42 Code of Federal Regulations \(CFR\) 441.301\(c\)\(4\)\(i\)-\(v\)](#)



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# All Settings

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- All Medicaid HCBS settings must also have the following qualities:
  - Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.
  - Optimizes individual initiative, autonomy, and independence in making life choices.
  - Facilitates individual choice regarding services and supports, and who provides them.

[42 CFR 441.301\(c\)\(4\)\(i\)-\(v\)](#)



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# Access to the Community

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## Federal Requirement:

- The member has access to the community, including opportunities to:
  - Engage in community life,
  - Control personal resources, and
  - Receive services in the community.

## What does this look like in practice?

- No policies in place that restrict community access
- Support the member to participate in community activities when they wish
- Provide or help arrange transportation



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# Employment

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## **Federal Requirement:**

The member has opportunities to seek employment and work in competitive, integrated settings.

## **What does this look like in practice?**

- If a member expresses interest in employment, connect them with their MCO service coordinator for access to Medicaid employment services
- Providing transportation or helping arrange transportation



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# Privacy, Dignity & Respect

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## Federal Requirement:

The member has the rights of privacy, dignity and respect, and freedom from coercion and restraint.

## What does this look like in practice?

- Keeping health and personal information private
- Speaking respectfully to the member and addressing them as they would like to be addressed
  - e.g. by first name or as Ms./Mr. *Last Name*
- Providing information to the member about how to file a complaint and contact the HHS Ombudsman



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# Initiative, Autonomy & Independence

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## Federal Requirement:

Optimize, but do not regiment, the member's initiative, autonomy, and independence in making life choices.

## What does this look like in practice?

- Allow the member to make choices about their daily activities and who they interact with
- Get input from the member when making activity schedules
- Support the member in working toward their goals
- Do **not** force the member to participate in an activity when they do not wish to, or punish the member for not participating in an activity



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# Choice of Services and Supports

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## Federal Requirement:

- The member has choice regarding services and supports, and who provides them.

## What does this look like in practice?

- Supporting the member to go into the community to receive services, including providing transportation or helping arrange transportation.
- Supporting the member's preferences regarding care delivered in the AFC setting.



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# Provider-Owned & Controlled Settings

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**Additional requirements for provider-owned and controlled residential settings.**

# Provider Owned & Controlled Settings

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- Additional requirements for these settings:
  - The member has a residential agreement with the provider that offers the same protections against eviction that tenants have under state landlord/tenant law.
  - The member has privacy in their sleeping or living unit, including:
    - Lockable doors
    - Choice of room or roommate
    - Freedom to furnish and decorate



# Provider Owned & Controlled Settings (cont.)

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- The member has freedom and support to control their own schedules and activities and have access to food at any time.
- The member is able to have visitors of their choosing at any time.
- The setting is physically accessible to the individual.
- Any modifications to these conditions are documented in the member's person-centered service plan.



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# Residential Agreement

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## **Federal Requirement:**

- The member resides in a place that can be owned, rented or occupied under a legally enforceable agreement by the member.
- The member has the same responsibilities and protections from eviction that tenants have under the Texas Property Code.

## **What does this look like in practice?**

- Execute HHSC Form 2327, Individual/Member and Provider Agreement



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# Door Locks

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## **Federal Requirement:**

The member has privacy in their bedroom, including that the room has an entrance door lockable by the member, with only appropriate staff having keys.

## **What does this look like in practice?**

- The member can lock their bedroom door from the inside.
- The AFC provider staff knock on the member's bedroom door and wait to receive permission before entering.



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# Choice of Room and Roommate

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## Federal Requirement:

- The member has a choice of roommate in the setting.

## What does this look like in practice?

- When moving into the AFC, the member is given a choice of room and roommate.
- The member can request a change of room or roommate.



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# Room Furnishing & Decoration

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## **Federal Requirement:**

The member has the freedom to furnish and decorate their sleeping or living space.

## **What does this look like in practice?**

- The member can bring furniture and other items when moving into the setting.
- The member can decorate their bedroom as they wish, such as displaying pictures, books, and memorabilia.



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# Control of Daily Schedule

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## **Federal Requirement:**

The member has the freedom and support to control their own schedules and activities and has access to food at any time.

## **What does this look like in practice?**

- Have a process to discuss with the member their preferences for their daily schedule and activities
- Ensure the member can access food when they wish, including having snacks before and after mealtimes.



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# Curfew

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## **Federal Requirement:**

The member has the freedom and support to control their own schedules and activities and has access to food at any time.

## **What does this look like in practice?**

- Ensure policies do not include any curfew expectations
- Encourage or recommend, but do not mandate, that member return to the setting by a certain time.



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# Visitors

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## **Federal Requirement:**

The member is able to have visitors of their choosing at any time.

## **What does this look like in practice?**

- The member to receive visitors at any time and provide a location where recipients can meet privately with their visitors.
- Make visitation policies available to the member.



# Physical Accessibility

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## **Federal Requirement:**

The setting must be physically accessible to the member.

## **What does this look like in practice?**

- There are no obstructions in the setting that make it difficult for the member to move around.
- There are supports available to help the member move around the setting.
  - For example: grab bars, seats in the bathroom, or ramps for wheelchairs.



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# Modifications to HCBS Settings Qualities

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## **Federal Requirement:**

Any modifications to these criteria must be supported by a specific need and justified in the member's person-centered service plan.

## **What does this look like in practice?**

- When you identify a modification or restriction is needed, collaborate with the member and MCO to document the modification in the member's service plan.



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# Key Takeaways

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- The HCBS Settings Rule creates new requirements to ensure Medicaid recipients' rights are upheld and recipients have opportunities to participate in the community.
- AFCs have to meet the HCBS Settings Rule requirements that apply to all settings, as well as the requirements that apply to provider-owned and controlled settings.
- The state must ensure each AFC meets the requirements of the HCBS Settings Rule by March 2023.



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# Assessment Process & Timeline

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# Assessment Requirement

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- CMS requires states to assess each individual provider-owned or controlled residential setting to ensure the setting will meet all requirements of the HCBS Settings Rule by March 2023.
- This means HHSC needs to assess each AFC provider that participates in STAR+PLUS HCBS.



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# Step 1: Self-Assessment

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- Providers will complete an online self-assessment
- The self-assessment consists of two parts:
  - A questionnaire with some yes/no questions and some open-ended questions
    - Questions will ask about the members' access to the community and how services are delivered
  - A section to submit copies of your policies and procedure documents
    - Residential Agreement or Form 2327 Individual/Member Agreement



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**Oct. 17 – Nov. 18, 2022**

## Step 2: Virtual Visit

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- After completing the self-assessment, you will sign up for a 1-hour virtual visit with HHSC staff.
  - HHSC will provide a link for AFCs to sign up for a time slot.
    - Some evening and weekend time slots will be available.
  - HHSC will work with providers who do not utilize computers or internet to ensure they are able to participate in virtual visits.

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## Step 2: Virtual Visit (cont.)

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- **The virtual visit will include:**
  1. A desk review of the information submitted through the self-assessment.
  2. A short interview with the provider.
  3. A virtual tour of the setting.
    - Conducted using audio/visual
  4. If needed, development of an action plan for the provider to achieve full compliance with the HCBS Settings Rule.



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## Step 3: Action Plan

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- The provider completes the steps identified in the action plan.
- Activities on the action plan could include things like:
  - Installing locks on residents' doors
  - Updating your policies
  - Educating your members about their rights

**Nov. 28, 2022 – Jan. 30, 2023**



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# Step 4. Documentation

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- Inform HHSC when your action plan has been implemented
  - Submit revised policies and procedures documents
  - Short follow-up virtual visit, if needed

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# Assessment Timeline

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## Key Dates:

- **Oct. 17 – Nov. 18, 2022**  
Providers complete online self-assessment form  
Providers sign up for virtual visit
- **Nov. 28, 2022 – Dec. 16, 2022**  
Providers and HHSC staff meet for virtual visits
- **Nov. 28, 2022 – Jan. 30, 2023**  
Providers complete any action steps needed to fully comply with HCBS Settings Rule



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# Reminders

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- This is a collaborative process
- Reach out to us when you have questions
- The goal is to help everyone meet the federal requirements



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# FAQ - 1

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- **What if I'm not able to complete the self-assessment online?**
  - If you're not able to complete the assessment online, reach out to HHSC to let us know.
  - We will conduct the assessment with you virtually or over the phone.



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# FAQ - 2

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- **How do I sign up for a virtual visit if I don't have access to a computer/internet?**
  - If you are not able to sign up for a virtual visit, reach out to HHSC to let us know.
  - We will work with you directly to schedule a time for the virtual visit and determine how best to conduct the visit.



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# FAQ - 3

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- **What if none of the virtual visit time slots work for my schedule?**
  - If none of the virtual visit time slots work for you, reach out to HHSC to let us know.
  - We will work with you to identify an alternative time for your virtual visit.



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# 10-minute break

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**Questions will be addressed  
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# Questions?

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HCBS mailbox:

[Medicaid\\_HCBS\\_Rule@hhsc.state.tx.us](mailto:Medicaid_HCBS_Rule@hhsc.state.tx.us)