



**Date:** September 20, 2022

**To:** Home and Community-based Services (HCS) Program Providers

**Subject:** Information Letter No. 2022-49  
Assessment of 3-Person Residences, 4-Person Residences, and Host Home/Companion Care (HH/CC) Settings for Compliance with Federal Home and Community Based Services (HCBS) Settings Rule  
**Revised 9/22/22**

The purpose of this information letter (IL) is to inform HCS program providers of upcoming assessments of HCS 3-person residences, 4-person residences, and HH/CC settings for compliance with certain requirements of the federal HCBS Settings Rule.

This IL is revised, effective September 22, 2022, to correct the start date for the assessment process. The assessment process will begin September 2022.

## **Federal HCBS Settings Rule**

In March 2014, the Centers for Medicare and Medicaid Services (CMS) issued the federal HCBS Settings Rule which added requirements for settings where Medicaid HCBS are provided. The federal deadline for compliance with the HCBS Settings Rule is March 17, 2023. The HCBS Settings Rule applies to the HCS waiver program.

The HCBS Settings Rule includes several requirements for HCBS residential settings where Medicaid recipients reside. Three specific requirements include that Medicaid recipients have access to the following:

- A lease or residential agreement that offers the same protections against eviction that tenants have under the state's landlord/tenant law;
- Privacy in their sleeping or living unit, including a unit that has entrance doors lockable by the individual, with only appropriate staff having keys to doors; and

- Freedom and support to control their own schedules and activities, including access to food at any time.

## Assessment Criteria

HHSC will assess all provider owned or controlled HCS residential settings for compliance with the three specific requirements of the HCBS Settings Rule outlined above. The assessment will be based on the following criteria:

- An individual has a lease agreement with the provider that provides protections against eviction that tenants have under the landlord/tenant laws of the state.
- An individual's bedroom door is lockable by the individual, with only appropriate staff having keys to doors.
- An individual has access to food at any time.

If the assessment determines that an HCS residential setting does not comply with the federal HCBS Settings Rule, HHSC will provide information to the provider about remediation steps that must be taken to comply. All remediation must be completed by the **March 17, 2023** deadline.

## Assessment Process

HHSC Long-Term Care Regulation (LTCR) will conduct on-site assessments of all 3-person and 4-person residences beginning September 2022.

HHSC Contract Administration and Provider Monitoring (CAPM) will conduct on-site assessments of HH/CC settings that are determined to be owned or leased by a service provider of HH/CC that is not a family member of the individual(s) receiving HH/CC services beginning September 2022.

If you have any questions about this letter, please send them to:  
[Medicaid\\_HCBS@hhs.texas.gov](mailto:Medicaid_HCBS@hhs.texas.gov).

Sincerely,

*[signature on file]*

Erica Brown, Deputy Director of Program Policy  
Medicaid and CHIP Services