

## CMS HOME AND COMMUNITY-BASED SERVICES (HCBS) REGULATIONS: DEVELOPMENTAL DISABILITY (DD) WAIVERS

**This handout is for prospective providers of the following services available in the DD Waivers: group home, sponsored residential, supported living, and group day services**

The Centers for Medicare and Medicaid Services (CMS) established new Home and Community Based Services (HCBS) regulations that include requirements for Medicaid HCBS settings. These regulations were developed to ensure that individuals receiving services under Medicaid waiver authorities have full access to the benefits of community living and the opportunity to receive services in the most integrated setting appropriate. *Settings that were operating when the regulations were implemented have a transition period for compliance with the settings requirements as described in Virginia's Statewide Transition Plan.*

**However, NEW group home, sponsored residential, supported living, and group day settings MUST be fully compliant with the HCBS settings requirements prior to providing Medicaid HCBS.**

➤ **How does this impact providers going through the prioritized OR standard DBHDS licensing process?**

If you are....	And,	Then,
1) A currently licensed provider of group home, sponsored residential, supported living and/or group day services that completed the provider self-assessment in REDCap...	...You/your agency plan to open setting/location to provide one or more of these services to individuals with developmental disabilities...	...A modified self-assessment must be completed in REDCap <b>for the new setting/location</b> prior to providing Medicaid HCBS waiver services in that location. Email <a href="mailto:hcscomments@dmas.virginia.gov">hcscomments@dmas.virginia.gov</a> to have REDCap access enabled.
2) Planning to become a DBHDS licensed provider...	...You plan to provide group home, sponsored residential, supported living and/or group day services to individuals with developmental disabilities in a setting being newly licensed...	<b>...The new setting/location must be fully compliant with all HCBS settings requirements prior to providing Medicaid HCBS waiver services.</b> Email <a href="mailto:hcscomments@dmas.virginia.gov">hcscomments@dmas.virginia.gov</a> to have a new provider self-assessment sent to you. Please be aware that this process can take 4-6 weeks.
3.) A currently licensed provider of group home, sponsored residential, supported living and/or group day service	...You plan to <u>acquire a new setting</u> from another provider	<b>...A new NPI number must be established for the agency as acquiring an existing agency/ change of ownership is considered to be a "new provider".</b> Email <a href="mailto:hcscomments@dmas.virginia.gov">hcscomments@dmas.virginia.gov</a> to have a new provider self-assessment sent to you. Please be aware that this process can take 4-6 weeks. The new assessment will review the agency policy/ procedure and ensure that each

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		individual is provided choice in services and who provides them. This will generate a conditional administrative organizational approval. Following this approval, a formal review will take place 6 months after the sale. This review will focus on practice and implementation of policy.
3.) A currently licensed provider of group home, sponsored residential, supported living and/or group day service	You plan to <u>add a setting</u> via the Licensing setting modifications process.	...A modified self-assessment must be completed in REDCap for the new setting/location prior to providing Medicaid HCBS waiver services in that location. Email <a href="mailto:hbscomments@dmas.virginia.gov">hbscomments@dmas.virginia.gov</a> to have REDCap access enabled.
NOTE: Meeting DBHDS licensing standards does not mean that the setting is HCBS compliant. Additional documentation will be needed to be determined full compliance with HCBS settings requirements. <b><u>HCBS Compliance must be met BEFORE the provider will be able to bill for providing services.</u></b>		

➤ **How does a new provider/setting get additional information?**

Email [hbscomments@dmas.virginia.gov](mailto:hbscomments@dmas.virginia.gov) and provide the following information:

- Provider Name
- Waiver service/type of setting
- Setting Address (street, city, state, zip code)
- Contact Name
- Contact Phone Number
- NPI/API Number\*

You/Your agency will receive additional resources, guidance and technical assistance for the completion and submission of a provider self-assessment of the setting. With the self-assessment you/your agency will be required to submit evidence that demonstrates the setting's compliance with the requirements.

\*A new NPI number is required when a change of ownership occurs. A provider must obtain a new NPI and re-enroll with Medicaid.

➤ **How long does it take to be found compliant and receive the HCBS compliance verification letter?**

The time frame varies. If the self-assessment and evidence submitted clearly reflect the HCBS settings requirements, and that they are fully integrated into the operations and culture of the setting and services provided, it could take up to four weeks. If there are many areas that need to be brought into compliance, it could take up to six months. For a setting to be fully compliant, HCBS requirements need to be fully integrated into the setting, for example, its policies, staff training, person-centered practices and ensure individualized supports and access to the greater community.

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### ➤ What are the HCBS settings requirements?

Per federal regulations ([42 CFR 441.301](#)), individuals enrolled in HCBS waivers are permitted specific rights. For individuals receiving Medicaid DD waiver services in group home, sponsored residential, supported living and/or group day settings, the setting must:

- Be integrated in and support full access to the greater community
- Ensure an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint
- Optimize, 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
- Facilitate individual choice regarding services and supports, and who provides them.

#### **Furthermore, individuals living in provider owned or operated residential settings must:**

- Have a signed lease or other legally enforceable agreement providing similar protections
- Have access to privacy in their sleeping units including lockable doors, choice of roommates, and freedom to furnish or decorate their unit
- Have the ability to control their daily schedules and activities and have access to food at any time
- Have the ability to have visitors at any time
- Be able to physically maneuver within the residential setting (e.g., setting is physically accessible).

For a provider owned or operated residential setting, any modifications made to any of the above criteria must be the result of identified specific needs discovered through an independent (re)assessment, and then documented and justified in a **person-centered service plan**.

## INFORMATION & RESOURCES

- Federal Regulation: <http://www.gpo.gov/fdsys/pkg/FR-2014-01-16/pdf/2014-00487.pdf>
- A [summary of the regulatory requirements](#) of fully compliant HCB settings and those settings that are excluded.
- Additional technical guidance on regulatory language regarding [settings that isolate](#).
- Exploratory questions that may assist states in the assessment of:
- [Residential Settings](#)
  - [Non-Residential Settings](#)
  - [Questions and Answers Regarding Home and Community-Based Settings](#)
  - [Frequently Asked Questions Regarding the Heightened Scrutiny Review Process and Other Home and Community-Based Settings Information](#)
  - [Planned Construction of Presumed Institutional Settings](#)

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