



Andy Beshear
GOVERNOR

CABINET FOR HEALTH AND FAMILY SERVICES
DEPARTMENT FOR MEDICAID SERVICES

Eric Friedlander
SECRETARY

Pam Smith
DIRECTOR

Division of Long-Term Services and Supports
275 East Main Street, 6W-B
Frankfort, Kentucky 406 21
chfs.ky.gov

Lisa Lee
COMMISSIONER

To: 1915(c) Home and Community Based Providers

From: Pam Smith
Director, Division of Long-Term Services and Supports

Date: December 21, 2022

Re: Final Settings Rule Requirements

The Department for Medicaid Services (DMS) is issuing a reminder to 1915(c) Home and Community Based Services (HCBS) providers about the HCBS Settings Final Rule. Most of the following requirements are already included in current waiver regulations. DMS intends to amend the regulations to include all HCBS Settings Final Rule Requirements soon. These updates will mirror the federal requirements already in place and with which providers should already be complying.

For all 1915(c) HCBS Waiver Providers

The HCBS Settings Final Rule establishes requirements for the qualities of settings provided under section 1915(c) of the Medicaid statute. The final rule requires that all HCBS settings meet certain qualifications. The setting must:

- Be integrated in and support full access to the greater community;
- Be selected by the individual from among setting options including non-disability specific settings;
- Ensure individual rights of privacy, dignity and respect, and freedom from coercion and restraint;
- Optimize autonomy and independence in making life choices; and
- Facilitate choice regarding services and who provides them.

For 1915(c) HCBS Waiver Residential Providers

The final rule also includes additional requirements for provider-owned or controlled HCBS residential settings. These requirements include:

- The individual has a lease or other legally enforceable agreement providing similar protections;

- The individual has privacy in their unit including lockable doors, choice of roommates and freedom to furnish or decorate the unit;
- The individual controls his/her own schedule including access to food at any time;
- The individual can have visitors at any time; and
- The setting is physically accessible.

Any modification to these additional requirements for provider-owned or controlled HCBS residential settings must be supported by a specific assessed need and justified in the person-centered service plan.

DMS is aware that the requirement for a lease or other legally enforceable agreement is not yet included in regulation. Since federal law requires the lease or other legally enforceable agreement providing similar protections, providers of residential services are expected to comply with the federal requirement.

If you have questions about final rule, contact the appropriate agency below:

- ABI, ABI LTC or MIIW
Department for Medicaid Services
(844) 784-5614
1915cWaiverHelpDesk@ky.gov
- HCB
Department for Aging and Independent Living
(877) 315-0589
dailhcb@ky.gov
- MPW or SCL
Department for Behavioral Health, Developmental and Intellectual Disabilities
Contact your Quality Administrator

Sincerely,



Pam Smith
Director, Division of Long-Term Services and Supports