



State of Connecticut
Department of Developmental Services

DDS

Ned Lamont
Governor

Jordan A. Scheff
Commissioner

Elisa Velardo
Deputy Commissioner

To: DDS Qualified Providers

From: Jordan A. Scheff, Commissioner

CC: Elisa Velardo, Deputy Commissioner; Katie Rock-Burns, Chief of Staff; Krista Ostaszewski, Health Management Administrator; Sean Bannon, Operations Center Director; Regional Directors; Assistant Regional Directors; Regional Resource Administrators

Date: February 14, 2023

RE: **CMS Final Settings Rule- Update**

This memo serves as an update on the Home and Community-Based Services (HCBS) Settings Final Rule (known as “final settings rule”).

As a reminder, in 2014 the Centers for Medicare and Medicaid Services (CMS) issued a final rule that establishes requirements for the quality of HCBS settings that are eligible for reimbursement under Medicaid. The rule requires states to review and evaluate HCBS settings, including residential and non-residential settings, to determine that such Medicaid funded settings allow for and facilitate *community-based integration that distinguish them from institutional settings*.

The goal of the settings rule is to ensure settings in which HCBS participants receive services are integrated in and support full access to the greater community, while also facilitating choice in services and other life decisions.

As providers are aware, CMS has communicated that states must be in compliance with the rule by March 17, 2023.

In late December, the state of Connecticut submitted a Corrective Action Plan (CAP) to CMS requesting the ability to extend compliance requirements for the final settings rule. At this time, the state has not yet received approval of the CAP by CMS. It is important to note that to date, we are unaware of any state receiving approval of their CAP. The CAP requests additional time to meet potential compliance issues due to workforce challenges. The timeframe requested for future compliance is February 28, 2024. A copy of the proposed CT CAP, as well as CAPs and transition plans other states can be found [here](#).

As noted in [our communication](#) from November, CMS specified that they continue to focus on the following priorities of the rule in the context of provider-controlled settings for HCBS participants:

- A lease or other legally enforceable agreement providing similar protections;
- Privacy in their room, including lockable doors, and freedom to furnish or decorate their room;
- Access to food at any time;
- Access to visitors at any time;
- Physical accessibility; and
- Person-centered service plan documentation of modifications to relevant regulatory criteria.

Requirements to the final settings can be modified as long as the details are assessed, explained and justified in the person-centered plan. DDS will be working with our case management teams in the upcoming months to ensure details around this process are clear.

The Department's mission and vision focuses on creating and promoting meaningful opportunities for individuals to fully participate as valued members of their communities. The final settings rule clearly aligns with these values. DDS is confident that our provider network already embraces the foundational spirit of the final settings rule and we truly believe that overall, we are compliant with the major tenets of the rule. We continue to work toward improvements and ongoing education and monitoring to ensure sustainable implementation.

As described in the January [provider memo](#) regarding Quality Service Reviews (QSR), QSR will be utilized as one of the main tools to measure ongoing compliance with the final settings rule. As many of the QSR indicators used to monitor the quality of supports provided already align with the settings rule, using these indicators as the method to monitor compliance was determined to be the most appropriate and least disruptive tool. Indicators that specifically measure compliance with the settings rule have been noted in the interpretive guidelines, which can be found on the new QSR webpage here: [Quality Service Review Unit \(ct.gov\)](#). It is important to note that no new indicators have been added the QSR review.

DDS continues to work through a template for providers to utilize specific to “a lease or other legally enforceable agreement providing similar protections.”

DDS asks that providers continue to review their processes over the next several months with the priority items noted above in mind. If modifications to these priorities are necessary, please ensure that they are explained in the person-centered plan.

DDS is grateful for your commitment and we look forward to our work together to ensure every individual supported by DDS has the ability to live a fully integrated life of their choosing.

For more information on the final settings rule, as well as links to several corresponding documents please visit: <https://portal.ct.gov/DDS/OperationsCenter/Providers/CMS-Final-Settings-Information>

A copy of the Approved CT State Transition Plan can also be found here: <https://portal.ct.gov/-/media/DDS/Waiver/finalsettings/CT-STP-Amendment-Final-08-01-2018.pdf>

For questions, please contact your assigned region.
Thank you.