



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: March 31, 2023

RE: **Final Settings Rule- Updates and Residential Agreement Template**

Dear Providers,

This memo is a follow up to our ongoing conversation related to 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.

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.

Corrective Action Plan

As providers are aware, CMS has communicated that states must be in compliance with the rule by March 17, 2023. However, the state of CT received approval of our Corrective Action Plan (CAP) that extends compliance requirements for the final settings rule. A copy of the approved CAP can be found on [here](#).

Although the approved CAP extends some compliance requirements, it is important that we continually work in partnership to ensure ongoing compliance and continually work on improvements.

Ongoing Compliance and Monitoring

DDS will be providing additional information, surveys, resources and materials related to final settings to assist with ongoing compliance and monitoring of such compliance. 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. 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 to the QSR review.

Residential Lease or Lease-Like Agreement- Template

After much review and discussion, we are happy to share the attached residential agreement template for those residential settings (CLAs & CRS) where a lease is contractually required. As noted earlier, a lease or lease like agreement is a requirement under the final settings rule. The attached template is an example of a lease that can be used to improve the current leases CLAs and CRS' already have in place.

Some important components of a lease or lease like agreement, as articulated by the settings rule, is that the individual has the same rights as any tenant under landlord tenant law. Now you may be asking, what does this mean? This focus is specific to the general rights of the resident as well as specifically the appeal rights of the resident. It's important that every lease or lease like agreement articulate the appeal rights of the individual both through DDS and through Superior Court. Template sections #6, 7 & 8 under "*If the Provider Chooses to End the Residency Agreement*" articulate these requirements.

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 DDS Final Settings webpage: <https://portal.ct.gov/DDS/OperationsCenter/Providers/CMS-Final-Settings-Information>

Thank you.