



# COMMUNITY CONNECTIONS

*Adaptive Conversations on Integration and Choices for Everyone*





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# ADAPTIVE CONVERSATIONS ON INTEGRATION AND CHOICES FOR EVERYONE



August 23, 2019

Adaptive Conversations on Integration and Choices for Everyone



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# HCBS Medicaid Services

- Home and Community Based Services (HCBS) are an alternative to institutional settings such as nursing facilities, IMDs, and ICFs
- Kansas has seven HCBS waivers: Autism, SED, PD, FE, IDD, TA, BI
- Nationally there has been concern that over the years HCBS Medicaid funding has been used to pay for services and supports provided in settings that isolate people from the broader community





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# What is the HCBS Settings Final Rule?

- Published in the Federal Register on January 16, 2014
- The HCBS Settings Final Rule defines the qualities of settings that are eligible to receive HCBS funding
- The Final Rule is designed with the intent to improve people's quality of life, increase their choices for services and settings, and provide them with more protections
- Aims to ensure that individuals receiving long-term services and supports through home and community based service programs have full access to benefits of community living and the opportunity to receive services in the most integrated setting appropriate





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# What is the HCBS Settings Final Rule?

- The Final Rule applies to all settings where Home and Community Based Services are delivered
- HCBS Settings include non-residential settings, such as adult day service centers, as well as residential settings, such as assisted living facilities
- HCBS Settings are required to come into compliance by March 17, 2022





# All HCBS Settings Must Have the Following Qualities

- The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community
- The setting provides opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS
- The setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting
- The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board





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# All HCBS Settings Must Have the Following Qualities

- The setting ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint
- Optimizes, 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
- Facilitates individual choice regarding services and supports, and who provides them





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# Provider-Owned or Controlled Residential Settings

- **In addition to the previous qualities, provider-owned or controlled residential settings must meet the following conditions:**
- The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services
- The individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity
- For settings in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law







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# Provider-Owned or Controlled Residential Settings

- Each individual has privacy in their sleeping or living unit
- Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors
- Individuals sharing units have a choice of roommates in that setting
- Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement
- Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time
- Individuals are able to have visitors of their choosing at any time
- The setting is physically accessible to the individual





# Kansas' Statewide Transition Plan

- Kansas' Statewide Transition Plan (STP) is Kansas' roadmap to compliance with the HCBS Settings Final Rule
- CMS reviews the plan and provides feedback
- Kansas received initial approval of the STP on May 21, 2019 and is now working toward final approval



# Systemic Assessment



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- Kansas reviewed and analyzed HCBS statutes, regulations, policies, manuals, and contracts to determine their compliance with the Final Rule
- When these documents were found to be in conflict with the Final Rule, or areas were silent, Kansas proposed changes
- Regulatory changes will have public input opportunities





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# Site-Specific Assessment

- 100% of sites where HCBS is provided in Kansas will be assessed
- Providers will complete a self-assessment survey for each site they operate
- KDADS will validate the assessments and notify providers of their compliance status





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# Site-Specific Remediation

- KDADS will notify providers of their compliance status
- KDADS will work with providers to help them come into compliance
- KDADS will ensure all HCBS beneficiaries receive HCBS services in compliant settings



# Heightened Scrutiny



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- Some HCBS Settings will be required to submit additional evidence if they are presumed to have the qualities of an institution
- CMS has identified three categories of residential and non-residential settings that are presumed to have the qualities of an institution:
  - Settings that are located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment;
  - Settings that are in a building located on the grounds of, or immediately adjacent to, a public institution; and
  - Any other settings that have the effect of isolating individuals receiving Medicaid home and community-based services (HCBS) from the broader community of individuals not receiving Medicaid HCBS.



# Heightened Scrutiny



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- KDADS will review the evidence and notify providers of the State's determination
- If KDADS concludes that the setting can overcome the qualities of an institution, the evidence will be sent to CMS and CMS will make the final determination on whether or not the setting can continue to provide HCBS
- If KDADS concludes that the setting cannot overcome the qualities of an institution, KDADS will inform people in the setting who receive HCBS and assist them in finding a compliant setting to transition to prior to March 17, 2022





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# Heightened Scrutiny

## HCBS Settings Final Rule Transition Home Page

- [bit.ly/ksfr](https://bit.ly/ksfr)

## Final Rule Update Stakeholder Calls

- Occur on the third Wednesday of each month at noon and 5:30 p.m.

## HCBS ListServ

- To receive emails, sign up here  
[https://kdads.ks.gov/commissions/home-community-based-services-\(hcbs\)/email-updates](https://kdads.ks.gov/commissions/home-community-based-services-(hcbs)/email-updates)

## KDADS Contacts

- Michele Heydon, HCBS Director  
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# Questions

1. What do you need from KDADS to support your setting(s) in this transition?



# Questions



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2. As we all work together in this, what should we be aware of?



# Questions



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3. Together we do a lot of great things for those we serve – what should we keep doing?





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THANK YOU

