



# COMMUNITY CONNECTIONS

**HCBS Provider Self-Assessment Manual**

**2021 Edition v2.0**

**February 15, 2021 to March 14, 2021**

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## Welcome

This manual is a resource to help you access and complete the Home and Community-Based Services (HCBS) Settings Provider Self-Assessment. Completing the HCBS Settings Provider Self-Assessment will help you understand how far along your HCBS setting/site is on the pathway to compliance with the HCBS Settings Final Rule. Results from your assessment will reveal areas where your site needs to make modifications (i.e., remediation) to meet CMS' requirements for the HCBS Settings Final Rule.

You are encouraged to complete the self-assessment as soon as possible. Please note that completing this assessment is just one step on your pathway to compliance. After you complete the assessment, there will be opportunities to modify your site and demonstrate that it meets all qualities and characteristics of a home and community-based setting. Having areas that are not compliant right now does not mean your setting can no longer provide HCBS. There is a remediation period for providers to make changes and bring their site(s) into compliance. The sooner you complete your assessment, the sooner you will receive the results and be able to work on remediation.

## Purpose

In January 2014, the Centers for Medicare and Medicaid Services (CMS) announced a requirement for states to review and evaluate current home and community-based services settings, including residential and non-residential sites, and to demonstrate compliance with the new Federal HCBS Settings Final Rule that went into effect on March 17, 2014. These federal guidelines were developed to ensure members receiving long-term services and supports through HCBS programs under Medicaid waiver authorities have full access to benefits of community living and the opportunity to receive services in the most integrated setting appropriate. Appendix 3 at the end of this manual lists the qualities that HCBS settings must comply with by March 17, 2023.

## Who needs to complete the assessment?

The assessment is meant to evaluate an HCBS site's current qualities and characteristics to determine the steps needed for the setting to come into compliance with all requirements of the HCBS Settings Final Rule.

**Every** provider currently receiving HCBS Medicaid funding should respond to this assessment for every site where HCBS is provided, unless the site has been identified as a setting that is presumed to be fully compliant (see below).

Providers who own or lease settings that are **presumed to be compliant** or **do not fit** the HCBS criteria do not need to complete an assessment for those settings. All Providers that might fit under this category must receive a presumed compliant determination from KDADS. Please submit all inquiries to [www.communityconnectionsks.org](http://www.communityconnectionsks.org).

Examples of settings that are ***presumed to be fully compliant***:

- Member owns/leases home, which is not provider-owned or controlled, and where services are provided in person's home. **However, if a provider bills residential services an assessment is required for the home.**
- Supported Employment provided in an integrated community setting/competitive employment, Supported Employment is an individualized (1-1) service.

Examples of settings that are institutional in nature and are not considered HCBS:

- Nursing facilities
- Institutions for mental diseases (IMD)
- Intermediate care facilities for individuals with intellectual disabilities (ICF/IDD)
- Hospitals

## Why are you asking for documentation of answers?

CMS requires that the self-assessments from 100% of HCBS settings be validated in some way. Kansas has elected to do a "desk review" in which trained reviewers use documentation submitted by providers to verify their answers on the assessment. Although preparing and submitting the documentation can be time-consuming, it is a less invasive method of validating responses than found with site visits or consumer interviews.

## Getting Started

Please follow these steps before you start an assessment.

1. **Create your account:** If you already have an approved Community Connections account you are able to skip this step and will be able to start new assessments starting Monday, February 15<sup>th</sup>. **If you do not have an existing Community Connections account:** Go to <https://www.hcbs-kansas.org/> and click on Create Account. Please provide the requested contact information and click "Create new account". After you submit your account request, an administrator will verify the information and activate your account within 48 hours or on the next business day. You will receive an email when your account has been activated. Your account will grant you access to your provider dashboard where you can complete assessments and review your progress for each site you are self-assessing. If you have technical difficulties and need assistance with setting up an account, please contact [HCBS.Team@wichita.edu](mailto:HCBS.Team@wichita.edu)

**Download a copy of the assessment:** Please download and print a copy of the Provider Self-Assessment for each HCBS site (i.e. location) you own or operate that receives HCBS Medicaid Funding. We suggest you use the hardcopy to answer the questions prior to entering your responses online. This will be particularly helpful because you will have to gather and submit documentation to validate answers for each HCBS site (i.e. location) you own or operate. The downloadable copy indicates which responses require documentation and includes documentation type suggestions.

You can download a hard copy of the provider self-assessment for residential settings here: [Residential Self-Assessment Questions](#)

You can download a hard copy of the provider self-assessment for non-residential settings here: [Non-Residential Self-Assessment Questions](#)

2. **Collect necessary documents:** As noted previously, you will be required to provide and upload evidence to validate your answers during the assessment. Please gather the necessary documentation prior to starting the online assessment. It will be easier to upload all documents prior to starting the assessment than if you go back and try to add documents once you've started answering questions. There is more detailed guidance for submitting evidence in [Appendix 1](#).
3. **Watch the YouTube video:** The Self-Assessment training video will help you understand how to navigate the provider dashboard and complete the assessment.

After you have completed steps 1-4 listed above, you are ready to begin taking the online self-assessment.

## Taking the Assessment

### Logging In

You need to log-in to the system to be able to access the assessment. If you have not created an account, please read the previous section in this manual, [Getting Started](#), and follow steps 1-4. After you create an account and receive confirmation that your account has been activated, you may log-in using your unique username and password.

### Using the Dashboard

When you log-in to your account, your home screen will have a dashboard that will update as you progress and will notify you of the number of assessments you have remaining. When you log in for the first time your Dashboard will be empty until you start adding information about the sites you own or operate. Then, the dashboard will indicate the assessments that you need to complete by setting type. **When you are in the middle of an assessment and want to return to your dashboard, please remember to click on Save Draft or Next Section first in order to not lose answers you have just entered.** The information will be saved, and you can go back to it from your Dashboard.

### Accessing the Assessment

The first time you log-in you will need to enter the number of HCBS settings you own or operate by setting type. Click on **Enter Provider Settings** and enter information in the fields. **You are**

**required to complete one assessment for each HCBS site/location you own or operate.** After you enter the overall number of sites you own or operate by setting type, the number of assessments you need to complete will be added to your dashboard and you can start the assessments.

## Uploading Documentation

**Do not upload any document that exposes protected health information (PHI) or violates the Health Insurance Portability and Accountability Act (HIPAA). You must de-identify and redact PHI before uploading a document.**

Before you start answering questions on an assessment, you will need to upload your documentation. You will be able to organize your documents into categories such as Photos of Geographic Locations, Policies and Procedures, etc. There is no expectation that you upload something in every category or even that you put files into the “right” category. The categories are simply to help you organize and find the correct files. For a full list of categories refer to [Appendix 2](#). To upload a document, click *browse* under the category you want it to go under and select your file. You can upload as many documents as you want. Refer to [Appendix 1](#) for guidance on submitting evidence.

Do not upload your entire policy handbook or consumer handbook, rather upload only each section that pertains to the assessment question you are answering. For example, if you are uploading a policy document related to having visitors at the setting, upload only the page(s) from the policy handbook that pertain to having visitors at the site.

If you are in the middle of an assessment and need to upload additional documents, you may do so by going back to section B on page 3.

NOTE: Gathering and uploading documentation for the questions in the assessment can be time-consuming. This is why you are urged to gather your documentation prior to beginning the assessment for each of the sites you own or operate.

For resources to help with uploading evidence, please visit [the Remediation Resources tab on the Community Connections website](#).

## Navigating the Sections of the Assessment

After you have uploaded documents, you are ready to start answering questions in the assessment. The assessment is composed of 9 sections: Sections A - I. Section A is collecting data about the setting, section B is the document upload section and sections C-I are the assessment. You will be directed to the relevant questions based on the setting type and/or the answers you provide. Each assessment will skip one or more sections that do not apply based on whether the setting is residential or non-residential.

## Saving the Assessment

As you complete every section of each site assessment, you can click on “Save Draft” or “Next Section” to save your progress. You will only be able to use “Next Section” if all questions on that page have been answered, however “Save Draft” will save answers regardless of how many questions are completed. **To go back to a previous page, your dashboard, or close the webpage, please make sure you select “Save Draft” so you do not lose any information.**

## Drafts

If you stop completing an individual site assessment before it has been reviewed, attested, and submitted, it will appear in the drafts section of your dashboard. Clicking “Save Draft” or “Next Section” before you leave the assessment will ensure all of your progress is saved. Drafts are not included in the number of site assessments remaining on the dashboard. You can access these partially completed assessments from your dashboard. You cannot delete drafts, but any drafts remaining when all required site assessments are completed will be disregarded and you will be able to submit the overall assessment.

## Submitting the Assessment

At the end of each site assessment instead of “Next Section” there will be a “Proceed to Review” button. Once you click “Proceed to Review” you will review your answers and documents (by file name) on one page, and will be able to go back and make changes as needed until you are ready to attest that it is complete.

**You will need to check the box “I have reviewed and do attest” and then you will be able to click the large “Attest and Complete” button. Once you review, attest, and submit an assessment for a site/location, you cannot edit it. You will be taken back to your dashboard, and your list of sites remaining will reflect the completion of that assessment.**

A PDF of the information you reviewed will remain available for download in the “Completed Sites” section of the dashboard, where you can download it for your record and use it to keep track of the sites you have already completed.

Once you have completed assessments for all sites you own or operate, your dashboard should change. You will no longer see any draft assessments or a count of sites remaining, and under Assessment Links you will be able to check the box next to “I have now completed assessments for all sites”, and then you will be able to select “Finalize Assessment Process”. **Once you click that button your assessment is complete, and you will not be able to complete more assessments.** The Completed Sites section will remain, so you are able to review what you have completed. If you reach this point and find you still have sites that you need to complete assessments for, click “Edit Provider Settings” and edit the number of sites to reflect the additional sites that you need to complete.

## FAQ

Please review this section before you contact [HCBS.Team@wichita.edu](mailto:HCBS.Team@wichita.edu), there may be an answer to your question here.

### **Am I required to complete the assessment?**

You must complete a self-assessment for each site you own or operate that receives HCBS Medicaid funding. Sites that are not assessed will not be eligible to receive Medicaid HCBS funding after March 17, 2023.

### **When is the deadline to respond to the assessment?**

The self-assessment will be available February 15, 2021 to March 14, 2021. You are encouraged to complete the self-assessment as soon as possible in order to find out which areas you need to remediate. All assessments must be submitted by **11:59 p.m. on March 14, 2021**.

### **Is there a risk in completing the assessment?**

No, there is no risk associated with completing the assessment. You will not lose HCBS Medicaid funding if your site is non-compliant in one or more areas. The assessment will help you understand where you are on your pathway to compliance and you will have additional time to remediate and come into compliance with the HCBS Settings Final Rule.

### **How will the assessment be administered?**

The assessment will be administered online through the online system. You will need to create an account and log-in to your account to answer the questions. You are encouraged to download and print a paper copy of the assessment so that you can collect documents to upload and answer questions before entering responses online.

### **How long does it take to complete the assessment?**

The survey questions themselves do not take long to complete for each site – approximately 15 – 30 minutes. Most questions only require a “yes” or “no” response. However, gathering and uploading documentation can be time-consuming and is required to validate certain responses on the assessment. Advance preparation will help cut down the time spent in the assessment itself.

### **How can I navigate between pages?**

If you have completed a page and want to go back to it, you can either click on the number of the page (at the top of the screen) or use the “Previous Page” button. It is good practice to save a draft before moving to a different page.

### **Why do I not see a section that’s on the hard copy? Or a certain question?**

The assessment questions you see online will be based on the HCBS setting type you select, and in some instances, the answer you provide to a previous question. When completing assessments for multiple sites, you may notice that the questions are different. For example, there are different questions for residential and non-residential sites.

**Is supporting documentation required to be sent in with the self-assessment?**

Yes, the supporting documentation is required to be uploaded with the assessment. If you cannot provide a document when one is required, you must change your response to the question. The lack of documentation will be addressed in remediation and shouldn't be a cause for undue concern. If you do not have a document for the question, it is okay. It is advised that you do not try to create documents before moving on with the assessment. You will be able to create evidence during the remediation phase.

**Why do I have to submit documentation when I've just answered the questions?**

CMS requires that all HCBS settings, including all sites/locations, be assessed and that the answers be validated in some way. Kansas has opted to administer the self-assessment and use a "desk review" as the validation method. For desk review, documents must be submitted to verify the answers to each question. For some questions, you may not be able to provide documentation. That's OK but it may require you to change your answer to the question.

**How do I upload the documents?**

If you need instructions how to upload the required documents, please check the YouTube video or refer to the section in this manual [Uploading Documentation](#).

**Can I attach more than one file per question?**

Yes, you can attach multiple files the same way you attached the first one.

**What documentation do I need to upload as evidence?**

[Appendix 1](#) has examples of documents you might use for each question in the assessment. There is no specific document you are required to upload. You may upload any documents you want to use to support your answers. The examples below are only suggestions.

**How do I label/name the documents?**

We suggest labeling your documents in a unique manner that allows you to easily identify them compared to other files, such as "ProviderName\_Setting\_DocumentType\_Question#.docx". This will help you select the appropriate document when completing the assessment, and it will also help the reviewer get the results back to you in a timely manner. For example, PrairiePalace\_200NMainSt\_VisitorPolicy\_D5

**If my operational manual or handbook (which includes evidence of compliance with the HCBS Settings Rule) is too large for electronic submission, can this document be mailed?**

Do not attach your entire manual or handbook. Only upload sections that pertain to the questions you are answering. You may scan the relevant sections. Mailed documents will not be accepted.

**Can I upload a document after starting the assessment?**

You can upload a document by going back to Section B on page 3 in the assessment.

**Is the assessment HIPAA compliant?**

Do not upload any document or information that exposes someone's private health information (PHI) or violates the Health Insurance Portability and Accountability Act (HIPAA). You will need to redact and de-identify PHI from any document you want to upload.

**What if I have more questions or need further assistance with the assessment?**

If you have questions about the HCBS statewide transition process, the heightened scrutiny process, or the assessment process, please contact the Community Connections team on the Live Chat at [www.CommunityConnectionsks.org](http://www.CommunityConnectionsks.org) or [HCBS.team@wichita.edu](mailto:HCBS.team@wichita.edu) for assistance.

If you have questions about how to fill out the assessment, please check the manual and the YouTube video before using the Live Chat or emailing [HCBS.Team@wichita.edu](mailto:HCBS.Team@wichita.edu).

**How many assessments do I need to complete?**

Each provider is required to fill out this assessment for EACH site/location they either own or operate that receives HCBS Medicaid funding.

**If I completed an assessment during the previous site-assessment process in 2015 and 2016, do I still have to fill out this assessment?**

Yes. All providers must complete assessments for each HCBS setting they own or operate that receives HCBS Medicaid Funding by March 14, 2021.

**How will I learn about heightened scrutiny, remediation, expectations, strategies and timelines?**

The Community Connections team is organizing activities for the State transition process. Information will be updated and available at the State's HCBS website at <https://communityconnectionsks.org/>.

**What happens after I complete the assessment?**

You will receive communication from Community Connections team regarding results and next steps. More detailed information will be announced as available at <https://communityconnectionsks.org/>

## **Appendix 1: Guidance for Submitting Evidence**

You must validate your responses with evidence when directed in the assessment (a message will pop-up with instructions regarding documentation) by providing sufficient documentation to support your response. You should provide any documentation you have which supports your answers. The following guidance is included to help you understand what evidence is helpful for each question:

### **Section C: Integrated Setting and Community Access**

#### **C1. Is this site located in or attached to a building that also provides inpatient institutional treatment (e.g. nursing home/facility or hospital etc.)?**

**Policy & Evidence Expectation:** No policy expectations, if photo or google image does not clear then an on-site from HS team will be needed.

Examples of institutions include but are not limited to; hospitals, nursing facilities, ICFs, institutions for mental diseases etc.

**CMS/Final Rule:** A building is institutional if it keeps people with disabilities away from, or segregated from, the larger community and people without disabilities. If the setting is located in a building that is also a publicly or privately operate facility that provides inpatient institutional treatment;

#### **C2. Is this site located in a building on the grounds of, or immediately adjacent to, a public institution? Examples of public institutions are: a nursing facility, an institution for mental diseases, an intermediate care facility for individuals with intellectual disabilities, a hospital, or any other locations that have qualities of an institutional setting (42 CFR 441.301(c).5**

**Policy & Evidence Expectation:** No policy expectations, if photo or google image does not clear then an on-site from HS team will be needed.

Examples of institutions include but are not limited to; hospitals, nursing facilities, ICFs, institutions for mental diseases etc.

**CMS/Final Rule Guidance:** A setting can be isolating if it is located in a building on the grounds of, or immediately adjacent to a public institution.

#### **C3. Is this site in a gated/secured community?**

**Policy & Evidence Expectation:** Preferred evidence is a Policy(s)/Procedure(s) indicating persons-served are not isolated solely due to their disabilities and persons-served have the same access to the greater community, services and supports as those who do not have disabilities. This is ultimately not a question of whether there is a gate in the front of the setting, but

whether the setting is isolating. An image showing there is no gate could be acceptable but policy documentation indicating there is no isolation is preferential.

**CMS/Final Rule Guidance:** A setting may be Isolating individuals receiving Medicaid HCBS from the broader community of individuals not receiving Medicaid HCBS. This would include settings that may not look isolating, but because of rules and procedures followed at the setting, have the effect of isolating residents. In guidance, CMS has identified potential examples of settings that isolate, including farmsteads, gated or secured communities for people with disabilities, residential schools, and multiple settings clustered together and operationally related.

**C4. Does your agency own or operate multiple sites (i.e., locations) located on the same street/block?**

**Policy & Evidence Expectation:** Preferred evidence is a Policy(s)/Procedure(s) indicating persons-served are not isolated solely due to their disabilities and persons-served have the same access to the greater community, services and supports as those who do not have disabilities. An image showing addresses (if there are multiple owned sites and their distance from each other) could be acceptable but policy documentation indicating there is no isolation is preferential.

**CMS/Final Rule Guidance:** Preferred evidence is a Policy(s)/Procedure(s) indicating persons-served are not isolated solely due to their disabilities and persons-served have the same access to the greater community, services and supports as those who do not have disabilities. In guidance, CMS has identified potential examples of settings that isolate, including farmsteads, gated or secured communities for people with disabilities, residential schools, and multiple settings clustered together and operationally related. This is ultimately not a question of where the site is located but if that location and the policies of that setting are isolating.

**C5. Are the persons-served at this site exclusively people with disabilities?**

**Policy & Evidence Expectation:** Preferred evidence is a Policy(s)/Procedure(s) indicating persons-served are not isolated solely due to their disabilities and persons-served have the same access to the greater community, services and supports as those who do not have disabilities.

After an internal review of this question it has been determined this question is more about access and inclusion than it is purely about demographics. The team does not wish to equate non-compliance with serving only people with disabilities, rather to underline the importance of communities formed entirely of this demographic taking steps to ensure access to the broader community is still available at the same level/rate as those who are not receiving HCBS services. If a community is formed (group home, assisted living, etc.) it is important to note this community must still provide opportunities for its members to interact with the community at large at the same level/rate as those who are not receiving HCBS services.

**CMS/Final Rule Guidance:** A setting may be Isolating individuals receiving Medicaid HCBS from the broader community of individuals not receiving Medicaid HCBS. This would include settings that may not look isolating, but because of rules and procedures followed at the setting, have the effect of isolating residents. In guidance, CMS has identified potential examples of settings that isolate, including farmsteads, gated or secured communities for people with disabilities, residential schools, and multiple settings clustered together and operationally related.

**C6. Are persons-served at this site required to receive medical, behavioral, or therapy services on-site?**

**Policy & Evidence Expectation:** Preferred evidence would be policy or procedure indicating persons-served are able to receive medical, behavioral and therapy services wherever they choose. Persons-served must be able to travel off-site to receive these services if they so desire.

**CMS/Final Rule Guidance:** A setting may be Isolating individuals receiving Medicaid HCBS from the broader community of individuals not receiving Medicaid HCBS. This would include settings that may not look isolating, but because of rules and procedures followed at the setting, have the effect of isolating residents. In guidance, CMS has identified potential examples of settings that isolate, including farmsteads, gated or secured communities for people with disabilities, residential schools, and multiple settings clustered together and operationally related. According to the Final Rule the setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including 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.

**C7A. Does this site also offer residential services?**

*[Shown for day service providers]*

**Policy & Evidence Expectation:** Preferred evidence would be a policy(s)/procedure(s) indicating persons-served have autonomy, integration and choice, even if both residential and day services are offered at the same location. Policies a provider have should spell out day/residential specifically, and we encourage documentation for day services to be separate from that of residential services.

**CMS/Final Rule Guidance:** A setting may be Isolating individuals receiving Medicaid HCBS from the broader community of individuals not receiving Medicaid HCBS. This would include settings that may not look isolating, but because of rules and procedures followed at the setting, have the effect of isolating residents. In guidance, CMS has identified potential examples of settings that isolate, including farmsteads, gated or secured communities for people with disabilities, residential schools, and multiple settings clustered together and operationally related. According

to the Final Rule setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including 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.

**C7B. Does this site also offer on-site day services?**

*[Shown for residential providers]*

**Policy & Evidence Expectation:** Preferred evidence would be a policy(s)/procedure(s) indicating persons-served have autonomy, integration and choice, even if both residential and day services are offered at the same location. Policies a provider have should spell out day/residential specifically, and we encourage documentation for day services to be separate from that of residential services.

**CMS/Final Rule Guidance:** A setting may be Isolating individuals receiving Medicaid HCBS from the broader community of individuals not receiving Medicaid HCBS. This would include settings that may not look isolating, but because of rules and procedures followed at the setting, have the effect of isolating residents. In guidance, CMS has identified potential examples of settings that isolate, including farmsteads, gated or secured communities for people with disabilities, residential schools, and multiple settings clustered together and operationally related. According to the Final Rule the setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including 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.

**Section D: Community Integration**

**D1. In addition to on-site activities, does this site provide opportunities for persons-served to participate in community events, activities and services?**

**Policy & Evidence Expectation:** Evidence for this question should always illustrate policy of the site to allowing and encouraging persons-served to be active members of the community. Preferred evidence would be a policy(s)/procedure(s) indicating persons-served are provided opportunities to participate in community events, activities and services at their discretion. These opportunities can be provided in multiple ways (transportation, planning, scheduling, etc.) but ultimately must be focused that the provider allows and encourages participation in community events, activities and services.

NOTE: Community means greater community not community within setting or site.

**CMS/Final Rule Guidance:** The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including 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. 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.

**D2. Does this site share information with persons-served about community events and activities?**

**Policy & Evidence Expectation:** Preferred evidence would be a policy(s)/procedure(s) indicating persons-served are communicated to regarding community events, activities and services available in the greater community.

NOTE: Many settings provide fantastic activities. This question is focused on informing persons-served on activities that aren't specifically offered by the provider but are available in the greater community.

**CMS/Final Rule Guidance:** The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including 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. According to the Final Rule the setting will 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.

**D3. Can persons-served at this site attend community activities and services (e.g., shopping, religious services, scheduled appointments, lunch with family and friends) whenever they choose?**

**Policy & Evidence Expectation:** Preferred evidence for this question would be policy/procedure indicating there are no restrictions on when persons-served are allowed to participate in community events, activities or services in the greater community when they see best fit.

**CMS/Final Rule Guidance:** The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including 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. According to the Final Rule the setting will 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.

#### **D4. Are there restrictions at this site regarding when persons-served can "come and go"?**

**Policy & Evidence Expectation:** Preferred evidence for this question is straightforward; policy(s)/procedure(s) indicating persons-served are able to “come and go” when they choose and any modification to the ability to “come and go” would be addressed in the person-centered plan.

**CMS/Final Rule Guidance:** According to the Final Rule the setting will 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. Individuals are able to have visitors of their choosing at any time.

#### **D4.1 Were the restrictions at this site regarding when persons-served can "come and go" developed and agreed upon by persons-served?**

**Policy & Evidence Expectation:** Preferred evidence for this question is straightforward; policy(s)/procedure(s) indicating persons-served have the ability to “come and go” when they want and any modification to the ability to “come and go” would be addressed in the person-centered plan.

NOTE: This question is also made valid through a valid response to D4

**CMS/Final Rule Guidance:** 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. According to the Final Rule the setting will 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. Individuals are able to have visitors of their choosing at any time.

#### **D5. Can persons-served have visitors of their choosing at any time?**

**Policy & Evidence Expectation:** Preferred evidence would be visitation policy or procedures stating that persons-served may have visitors at any time. For a non-residential setting this could include how visitation is allowed for all individuals including those without disabilities.

**CMS/Final Rule Guidance:** According to the Final Rule the setting will 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. Individuals are able to have visitors of their choosing at any time.

## **Section E: Housing Protection and Due Process**

**E1. Does the Landlord-Tenant law apply at the site for which you are filling out this assessment?**

**Policy & Evidence Expectation:** Preferred evidence would be a policy(s)/procedure(s) or a blank lease agreement indicating persons-served are afforded protections against eviction, the same as persons not receiving HCBS services.

NOTE: CMS has indicated to KDADS that it is the provider's responsibility to ensure those protections are in place. (E1 is a trigger question for whether the Landlord-Tenant Law applies in the area of the residence)

NOTE: Please ensure that any evidence has been de-identified and does not include PHI.

**CMS/Final Rule Guidance:** 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, and 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.

**E1.1 Is there a written agreement at this site that offers responsibilities/protections from eviction for persons-served?**

**Policy & Evidence Expectation:** Preferred evidence would be policy(s)/procedure(s) indicating that all tenants regardless of whether they have a disability or not have the same rights to protections from eviction as outlined in the Landlord-Tenant law.

NOTE: Please ensure that any all evidence has been de-identified and does not include PHI.

NOTE: If question E1 is valid then question E1.1 is valid

**CMS/Final Rule Guidance:** 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, and 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.

## **Section F: Living Arrangements**

**F1. Does this site have entrance doors that can be locked by the persons-served, with only appropriate staff having keys to door?**

**Policy & Evidence Expectation:** Preferred evidence would be policy(s)/procedure(s) indicating entrance doors can be locked by persons-served and only appropriate staff have keys to the doors. (Entrance doors may indicate the doors to the individuals personal living space).

**CMS/Final Rule Guidance:** 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.

**F2. Does this site provide anyone (besides the persons-served and appropriate staff) with a key or a way to be "buzzed in" for entering the facility?**

**Policy & Evidence Expectation:** Preferred evidence would be policy indicating that setting has an alternative method for allowing entry. This can be achieved through knocking, a doorbell or other methods. It should also extend to the person-served having some amount of control over allowing their own visitors to come and go.

**CMS/Final Rule Guidance:** Individuals are able to have visitors of their choosing at any time. 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.

**F3. Can persons-served at this site lock the bathroom door for privacy?**

**Policy & Evidence Expectation:** Preferred evidence would be a policy(s)/procedure(s) indicating persons-served are assured privacy in their personal living space with only appropriate staff having access to their personal living space.

**CMS/Final Rule Guidance:** The setting ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint. Each individual has privacy in their sleeping or living unit:

**F4. Do persons-served at this site have the option of locking his/her bedroom door for privacy when they choose?**

**Policy & Evidence Expectation:** Preferred evidence would be a policy(s)/procedure(s) indicating persons-served are assured privacy in their personal living space with only appropriate staff having access to their personal living space.

**CMS/Final Rule Guidance:** 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.

**F5. Do staff at this site knock on the door or ring a doorbell for access to persons-served private room(s)?**

**Policy & Evidence Expectation:** Preferred evidence would be a policy(s)/procedure(s) indicating persons-served are assured privacy in their personal living space with only appropriate staff having access to their personal living space. This policy(s)/procedure(s) should indicate that staff are required to announce themselves (knock, ring entry bell, or other method) and request permission to access the persons-served personal living space.

**CMS/Final Rule Guidance:** 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.

**F6. Are the living spaces at this site arranged in a way that ensures privacy during personal care?**

**Policy & Evidence Expectation:** Preferred evidence would be a policy(s)/procedure(s) indicating persons-served are assured privacy in their personal living space with only appropriate staff having access to their personal living space. This can be achieved through having locks, doors or other methods for obtaining privacy. Most importantly, evidence should reflect in policy that persons-served are assured privacy while addressing their own personal needs and care.

**CMS/Final Rule Guidance:** Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint. Each individual has privacy in their sleeping or living unit

**F7. Does the facility at this site offer privacy to persons-served while using a telephone, internet, or any other personal communication devices?**

**Policy & Evidence Expectation:** Preferred evidence would be a policy(s)/procedure(s) indicating persons-served are assured privacy in their personal living space. This should include privacy while using the telephone, internet, or any other personal communication devices. Persons-served should at the very least have the same assurance of privacy as someone not receiving HCBS services in their own home.

**CMS/Final Rule Guidance:** Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint. The setting is integrated in and supports full access of

individuals receiving Medicaid HCBS to the greater community, including 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.

**F8. Does the facility at this site have larger than double occupancy bedrooms?**

**Policy & Evidence Expectation:** Preferred evidence would be a policy(s)/procedure(s) indicating persons-served are assured privacy in their personal living space with only appropriate staff having access to their personal living space. This policy(s)/procedure(s) would include the ability to choose their roommate if a double occupancy or larger living space.

**CMS/Final Rule Guidance:** Each individual has privacy in their sleeping or living unit. Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint. Individuals sharing units have a choice of roommates in that setting.

**F9. Are persons-served at this site given the option to choose their roommate when sharing a bedroom? (If you have single occupancy rooms ONLY, select "Yes".)**

**Policy & Evidence Expectation:** Preferred evidence would be a policy(s)/procedure(s) indicating persons-served are assured privacy in their personal living space with only appropriate staff having access to their personal living space. This policy(s)/procedure(s) would include the ability to choose their roommate if a double occupancy or larger living space.

**CMS/Final Rule Guidance:** Individuals sharing units have a choice of roommates in that setting.

**F10 (a). Are bedroom decorations and furniture arranged at the discretion of the person-served at this site?**

**Policy & Evidence Expectation:** Preferred evidence would be a policy(s)/procedure(s) indicating persons-served have the right to and can decorate and furnish their personal living space as they choose.

**CMS/Final Rule Guidance:** Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.

**F10 (b). Are furniture decorations arranged at the discretion of the person-served at this site?**

**Policy & Evidence Expectation:** Preferred evidence would be a policy(s)/procedure(s) indicating persons-served have the right to and can decorate and furnish their personal living space as they choose.

**CMS/Final Rule Guidance:** Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.

**F11. Do persons-served at this site set their own daily routines for things such as hygiene, care delivery, recreation, and meals?**

**Policy & Evidence Expectation:** Preferred evidence would be a policy(s)/procedure(s) indicating persons-served have the right to set their own daily routines for such things as hygiene, care delivery, recreation, and meals.

**CMS/Final Rule Guidance:** Individuals have the freedom and support to control their own schedules and activities and have access to food at any time.

**F12. Do persons-served at this site have full access to laundry facilities?**

**Policy & Evidence Expectation:** The policy should indicate and/or show that the persons-served have full access to laundry facilities.

**CMS/Final Rule Guidance:** Individuals have the freedom and support to control their own schedules and activities and have access to laundry facilities at any time.

**F13. Can persons-served at this site choose to do their own laundry?**

**Policy & Evidence Expectation:** Policy should reflect that the persons served have the choice to do their laundry.

**CMS/Final Rule Guidance:** Individuals have the freedom and support to control their own schedules and activities and have access to laundry facilities at any time.

**F14. Do persons-served at this site have full access to the common area?**

**Policy & Evidence Expectation:** The policy should reflect that the persons served have adequate and full access to the common area of their home/setting.

**CMS/Final Rule Guidance:** Individuals have the freedom and support to control their own schedules and activities and have access to common areas at any time.

**F15. Do persons-served at this site have full access to the dining area?**

**Policy & Evidence Expectation:** Preferred evidence would be a policy(s)/procedure(s) indicating persons-served have full access to the dining area.

**CMS/Final Rule Guidance:** Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time.

**F16. Do persons-served at this site have full access to the microwave and refrigerator?**

**Policy & Evidence Expectation:** The policy/evidence would show that the persons-served have full access to appliances such as the microwave and refrigerator.

**CMS/Final Rule Guidance:** Individuals have the freedom and support to control their own schedules and activities and have access to food at any time.

**F17. Do persons-served at this site have full access to the kitchen?**

**Policy & Evidence Expectation:** The policy/evidence for this question should show that the persons-served have full access to the kitchen.

**CMS/Final Rule Guidance:** Individuals have the freedom and support to control their own schedules and activities and have access to food at any time.

**F17.1 Do persons-served at this site have access to a separate meal prep area or options to cook if they desire (within the limitations of their service plan)?**

**Policy & Evidence Expectation:** This policy should indicate that the persons-served has access to a separate meal prep area or options to cook if they desire. Modifications to this would be indicated in the persons-served personal care plan.

**CMS/Final Rule Guidance:** Individuals have the freedom and support to control their own schedules and activities and have access to food at any time. 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.

**F18. Do persons-served at this site have a choice of when AND what to eat?**

**Policy & Evidence Expectation:** This policy should show that the persons-served have a choice of what and when to eat.

**CMS/Final Rule Guidance:** Individuals have the freedom and support to control their own schedules and activities and have access to food at any time. 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. The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including 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.

**F19. Do persons-served at this site have a choice to eat alone or with others?**

**Policy & Evidence Expectation:** Preferred evidence would be a policy(s)/procedure(s) indicating persons-served have a choice to eat alone or with others, including with whom they would like to eat with.

**CMS/Final Rule Guidance:** 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.

**Section G: Rights**

**G1. Do you provide staff and volunteers at this site with training and continuing education related to the rights of persons-served?**

**Policy & Evidence Expectation:** Policy should show that the provider has a training program or regimen that both volunteers and staff receive training on the rights of the persons served. It should be noted that a volunteer clause should be included even if your site(s) do not offer volunteer services.

**CMS/Final Rule Guidance:** Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint. Facilitates individual choice regarding services and supports, and who provides them.

**G2. Do you provide persons-served at this site with information about their rights?**

**Policy & Evidence Expectation:** The policy should provide proof that the persons-served receive information about their rights and they can access them at any time.

**CMS/Final Rule Guidance:** Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint. Facilitates individual choice regarding services and supports, and who provides them. 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. The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including 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.

**G3. Do you provide persons-served at this site with a process to file a grievance if they believe their rights have been violated?**

**Policy & Evidence Expectation:** Preferred evidence would be a policy(s)/procedure(s) indicating persons-served receive information about the process for filing a grievance if they believe their rights have been violated

**CMS/Final Rule Guidance:** Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint. Facilitates individual choice regarding services and supports, and who provides them. 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. The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including 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.

**Section H: Accessible Environment**

**H1. Is the facility physically accessible to persons-served at this site?**

**Policy & Evidence Expectation:** Preferred evidence would be policy(s)/procedure(s) indicating the site is accessible to the persons-served at this facility or that the site will become accessible to the persons-served at this facility. Photos can make supporting evidence but are not compliant as standalone evidence.

**CMS/Final Rule Guidance:** The setting is physically accessible to the individual.

**H2. Does this site offer accommodations (e.g., grab bars, seats in the bathroom, ramps for wheelchairs, etc.) to persons-served who need supports to move about the facility?**

**Policy & Evidence Expectation:** Preferred evidence would be a policy(s)/procedure(s) indicating the site offers accommodations to persons-served who need supports to move about the facility, this would include such items as grab bars, seats in the bathroom, ramps for wheelchairs, etc.

**CMS/Final Rule Guidance:** The setting is physically accessible to the individual.

**H3. Does the facility at this site have any barriers which limit access (e.g., Velcro strips, locked doors, locked cupboards, locked refrigerators, etc.)?**

**Policy & Evidence Expectation:** Preferred evidence would be a policy(s)/procedure(s) indicating the site does not have barriers which limit access, such as Velcro strips, locked doors, locked cupboards, locked refrigerators, etc. If there are necessary restrictions documented in a PCSP they should not affect any person served that do not have these restrictions documented.

**CMS/Final Rule Guidance:** Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.

## **Section I: Non-Residential Services**

**I1. Is this site a work setting? [No documentation unless answering I1.1]**

**CMS/Final Rule Guidance:** The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including 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. Individuals have the freedom and support to control their own schedules and activities and have access to food at any time.

**No Suggested Documentation or Policy Expectation for this question. Question shown only if “yes” is selected on question I1.**

**I1.1 When working, are persons-served allowed to participate in deciding their work schedule?**

**Policy & Evidence Expectation:** The policy should indicate and show proof that persons-served have the right to choose their work schedule the same as persons who do not have disabilities.

**CMS/Final Rule Guidance:** The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including 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. Individuals have the freedom and support to control their own schedules and activities and have access to food at any time.

**12. When not doing paid work, are persons-served allowed to participate in deciding their activity schedule?**

**Policy & Evidence Expectation:** Preferred evidence would be a policy(s)/procedure(s) indicating persons-served have the right to participate in deciding their activity schedule when not doing paid work.

**CMS/Final Rule Guidance:** 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. 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.

**13. Does the facility at this site have a space for persons-served to secure personal belongings?**

**Policy & Evidence Expectation:** Preferred evidence would show that the persons-served have a space to secure their personal belongings in a place that only they have access to while at the setting

**CMS/Final Rule Guidance:** The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including 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.

**14. Is the facility at this site arranged in a way that ensures privacy during personal care?**

**Policy & Evidence Expectation:** The policy should be able to provide evidence that persons-served are afforded privacy during personal care.

**CMS/Final Rule Guidance:** Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.

**15. Do persons-served at this site have the opportunity to participate in tasks and activities matched to their skills, abilities, and desires?**

**Policy & Evidence Expectation:** The policy should provide evidence that the persons-served have the opportunity to partake in tasks and/or activities that are matched to their skills, abilities, and desires.

**CMS/Final Rule Guidance:** 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. 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.

## Appendix 2: Section B – Document Categories

On each site assessment Section B is where you will upload all the documents you have collected for that site. The following categories are provided to make finding the document you need easier during the assessment. **Please note that there is no expectation that you upload something in every category or that you put files into the “right” category. The categories are simply to help you organize and find the correct files. For all questions, these categories are acceptable evidence, but for most of the assessment questions policy(s)/procedure(s) are preferred evidence as indicated in Appendix 1.**

- **Photos of Geographic Locations:** Providers submit photos of the outside of their buildings that show any buildings adjacent to theirs. In addition, providers are asked to provide a bird’s eye view of the setting or a neighborhood map that shows the surrounding neighborhood with businesses, residences, and other buildings or landmarks. **Please label buildings in the picture to show what the surrounding structures are if no label is provided.**
- **Policies and Procedures:** Providers submit their written policies and procedures on topics such as training, restraints, admission processes, and plan of care development. It is important to see newer and updated policies and forms that explicitly address HCBS requirements.
- **Redacted/De-identified Person-Centered Service Plans and/or Support Plans:** Providers submit redacted/de-identified person-centered service plans and/or support plans.
- **Description of “Facility Access” To Community:** Providers submit information and resources that demonstrate their efforts to ensure that HCBS recipients are connected to the community. Examples include providing photos of such evidence as a bulletin board or brochures with notices of community events, accessible computers with WIFI and staff support, and accessible resource corners that an individual can use at any time. Other examples are facility newspapers or brochures for community activities, services, and other resources. Policies and procedures on how staff provide support and guidance to consumers and their friends and families on a regular basis could also be provided, in addition to the topics noted above under “Policies and Procedures.”
- **Consumer or Family Handbooks:** Providers submit any consumer or family handbooks that share important information with their clients.
- **Description of Collaborations with Organizations and Volunteers:** Providers submit a chart or diagram that illustrates the working relationships providers have with outside organizations and volunteers in terms of how these partnerships advance accessibility to the greater community. Other details may include how long the collaborations have existed, the expected duration (i.e., short or long term), and frequency of interactions.

- **Calendars:** Facilities' activity calendars are submitted as documentation of when activities occur outside or inside the setting and whether outside partnerships or volunteers are involved. According to Virginia's State Transition Plan (STP), CMS has indicated they would like evidence of a variety of activity opportunities (including alternatives to planned group activities) and that the information is clearly understandable to HCBS recipients.
- **Documentation of Consumer or Family Councils:** Providers submit evidence of family councils, activity planning councils, or consumer-participated councils that communicate activity planning, field trips, and/or feedback and consumer satisfaction. Providers must also provide documentation such as meeting minutes or other information/data that provides evidence of implementation or outcomes of the councils.

## Appendix 3: 42 CFR § 441.301 – The HCBS Settings Final Rule

Each HCBS setting must comply with the following qualities by March 17, 2022.

**(4) Home and Community-Based Settings.** Home and community-based settings must have all of the following qualities, and such other qualities as the [Secretary](#) determines to be appropriate, based on the needs of the individual as indicated in their person-centered service plan:

- (i)** The setting is integrated in and supports full access of individuals receiving [Medicaid](#) HCBS to the greater community, including 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.
- (ii)** 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.
- (iii)** Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and [restraint](#).
- (iv)** 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.
- (v)** Facilitates individual choice regarding services and supports, and who provides them.
- (vi)** In a provider-owned or controlled residential setting, in addition to the qualities at [§ 441.301\(c\)\(4\)\(i\)](#) through (v), the following additional conditions must be met:
  - (A)** 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, and 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.
  - (B)** Each individual has privacy in their sleeping or living unit:
    - (1)** Units have entrance doors lockable by the individual, with only appropriate [staff](#) having keys to doors.
    - (2)** Individuals sharing units have a choice of roommates in that setting.
    - (3)** Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.

**(C)** Individuals have the freedom and support to control their own schedules and activities and have access to food at any time.

**(D)** Individuals are able to have visitors of their choosing at any time.

**(E)** The setting is physically accessible to the individual.

**(F)** Any modification of the additional conditions, under [§ 441.301\(c\)\(4\)\(vi\)\(A\)](#) through (D), must be supported by a specific assessed need and justified in the person-centered service plan. The following requirements must be documented in the person-centered service plan:

**(1)** Identify a specific and individualized assessed need.

**(2)** Document the positive interventions and supports used prior to any modifications to the person-centered service plan.

**(3)** Document less intrusive methods of meeting the need that have been tried but did not work.

**(4)** Include a clear description of the condition that is directly proportionate to the specific assessed need.

**(5)** Include regular collection and review of data to measure the ongoing effectiveness of the modification.

**(6)** Include established time limits for periodic reviews to determine if the modification is still necessary or can be terminated.

**(7)** Include the informed consent of the individual.

**(8)** Include an assurance that interventions and supports will cause no harm to the individual.