



# **Home and Community Based-Services (HCBS) and The Settings Final Rule 5 Essential Characteristics**



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# Content

This presentation will give a brief overview of the Settings Final Rule and the 5 essential characteristics that should be in practice to all participants of HCBS settings regardless of their waiver or program. Please note examples given for each characteristic are not all inclusive but do represent guidelines of how HCBS can be delivered.

- Brief recap of the HCBS Settings Final Rule

- Overview of The 5 Essential Characteristics of HCBS:
  - Rights
  - Choice
  - Privacy
  - Autonomy
  - Integration

- Important Dates
- HCBS Portal
- Who to contact for more information

# Brief Recap of the Rule for HCBS

On January 16, 2014, the Centers for Medicare and Medicaid Services (CMS) published new rules to give more protections to home and community-based services (HCBS) participants.

# Home and Community Focused

These new rules seek to assure a HCBS participant receives services in their home or a home like setting, while also having full access to the greater community to interact with those that do not receive HCBS Medicaid.





## Essential Characteristics of HCBS

# The “5” Essential Characteristics of HCBS

- Rights
- Choice
- Privacy
- Autonomy
- Integration

# RIGHTS

How do you educate waiver participants on their rights in the setting?

A service provider should be knowledgeable about the final rule and a waiver participant's service plan. It should work to protect an individual's rights within the boundaries of the "person-centered" service plan.



## What do we mean by rights?

### Privacy

HCBS participants have the right to be free from being observed or disturbed by others when they choose.

### Respect

HCBS participants have the right to be admired and acknowledged for their abilities, qualities and achievements.

### Dignity

HCBS participants have the right to be treated with honor and worthiness.

### Freedom from Coercion and Restraint

HCBS participants have the right to be free from being bullied, restrained and forced to do things they do not want.

### Evictions

HCBS participants have the right to a rental or housing agreement and to not be evicted from their home with out due process of the law.

### Services

HCBS participants have the right to be educated on the types of services available and to be aware of what to do when they have a concern or complaint with services.



# CHOICE

Choice – Can a participant choose from one or more things?

A service provider should offer and honor choices made by an individual that are appropriate and meaningful to them. It should assist one to participate in activities with non-disabled persons which includes housing, employment and recreational activities.



## Daily Activities

HCBS participants have the right to make choices in their daily activities and with whom to be around.

## Services and Supports

HCBS participants are to be involved in choosing their services, supports and who provides them.

## Roommates

HCBS participants are to have input on the choice of roommate (s) where they live.

## Meals

HCBS participants are to be given the choice of what to eat, when to eat, to eat alone or to eat with others.

## Decorations and Living Space

HCBS participants should be given choice on how to decorate their bedroom and home.

## Changes

HCBS participants are to be educated on and involved in choices when changes occur to services they want or need.

# Privacy

A service provider should only allow appropriate staff into an individual's private spaces (bedroom, bathroom, closets). Staff should knock and receive permission before entering a waiver participant's space. A provider must give options of privacy during personal care and during the use of technology.



**Is a participant given the following rights and more for their privacy?**

HCBS participants have the right to privacy:

- in their sleeping area
- when they use the bathroom/restroom
- during personal care
- during phone calls
- while on the internet
- watching TV or using personal devices

- staff should knock before entering a participant's personal spaces
- participants should be able to lock doors to personal/private spaces when they choose
- participants should be able to secure personal belongings when they choose
- participants have the right to know what is written and said about them

Does a participant have the freedom to direct themselves on choices they want?

# Autonomy

A provider should help waiver participants have full access to needed areas and to set their own schedules – meaning they do not have to ask staff for permission to move around, do things or go places.

## Access

HCBS participants should be able to move around to access all areas of their home and workspace without having to wait on others or ask permission.



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## Resources

HCBS participants have the right to their own money and to spend it how they want.

HCBS participants have the right to pick out their own clothing, express themselves and to have personal property.

## Personal Items



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HCBS participants have the right to experience all aspects of life. They should be made aware of options available and the possible consequences of their decision.

## Informed Choice and Right to Risk

# Integration

Providers are to help waiver participants have access to the greater community so they can interact with those who do not have disabilities and/or receive HCBS.

**Are participants interacting in the greater community with those that do not have disabilities?**

HCBS participants can:

- pick when and where they want to go in the community
- have freedom to schedule activities when they like
- the choice of where they want to live and to live with others who do not have disabilities
- have a job or volunteer with others who do not have disabilities
- have visitors and visit with who they want, when they want



# Deadlines for Remediation Period:

- **June 1, 2022:** All providers and settings are expected to have submitted evidence to the state through the Community Connections KS Project Portal. Providers that miss the June 1 deadline will be contacted to start transition planning with the MCOs and CDDOs.
- **September 1, 2022:** All engaging providers and settings are expected to have received a compliance determination. KDADS will notify all providers and settings of their status by September 1, 2022.
- **September 18, 2022:** Providers choosing not to or unable to remediate must ensure that an individual or guardian receives a minimum of **180 days'** notice of its decision to terminate participation as a HCBS Waiver provider. The notice must be sent to the participant on or before **September 18, 2022**.
- **March 17, 2023:** All settings in the state of Kansas must be compliant to serve and support individuals through HCBS.

# HCBS Portal

- It will replace Community Connections by 2/1/23.
- Providers currently engaging will have data transferred to new system.
- Current providers will only need to acquire new account credentials and verify information.
- First release will be ready 7/1/22.
- 7/1/22 opening will be for new providers and existing providers who missed the initial and reopened assessments.
- Providers currently engaging and that meet the 6/1/22 deadline will be given priority.

# Thank You!

Content Creation and Credits



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**Need more information or have questions?**

**Contact Kansas Department for Aging and Disabilities Service at 785-296-4986.**

**Ask for the HCBS Project Manager**