

Overview

Description of how the state's oversight systems (licensure and certification standards, provider manuals, person-centered plan monitoring by case managers, etc.) have been modified to embed the regulatory criteria into ongoing operations.

The State evaluated relevant standards, rules, regulations and provider contracts to determine need for modification to comply with federal settings regulations. The State added [Administrative Rule R414-519](#).

Licensing Rules were modified for residential services to comply with federal settings regulations: [Administrative Rule R501-19](#) and [Administrative Rule R501-22](#).

- The Office of Service Review (OSR) and Office of Licensing (OL) have worked together to ensure all licensed providers understand settings rule expectations in the state and that licensing processes surrounding rights restrictions in HCBS programs comport with the Settings Rule. Any time OL rule/statute contradicts Settings Rule guidelines then OL uses Settings Rule as the expectation.

Person-Centered Plan Monitoring.

Specifically for our HCBS Waivers that fall under our Services for People with Disabilities (DSPD):

- The OSR team reviews Person-Centered Service Plan (PCSP) processes as part of annual contract reviews for all DSPD providers. We review for inclusion of individual preferences, interests, rights restrictions processes meeting settings rule and contract standards, and that goals/supports are person specific. We also conduct unannounced site visits at Residential, Day Habilitation, Host Home and Professional Parent sites that include review of PCSP supporting documentation including restrictions/modifications, goal tracking, and individualized supports are being provided to ensure it aligns with Settings Rule, contract standards, and individual preference. These visits include interviews with individuals and direct support staff regarding support and experiences.
- Person-centered plan software utilized by case managers has been revised to ensure settings rule compliance. DSPD's approach for person-centered planning embeds Charting the Life Course framework, and other person-centered planning tools in case manager training, software, and requirements for the PCSP. This includes development of applications that walk the case manager through a step-by-step process that meets Settings Rule requirements. Software is being piloted

currently, with enhancements to include modifications in the future. A live launch of the software is scheduled for February 2023. To ensure compliance with the Settings Rule, DSPD also drafted specific tools for informed choice for employment, and trained on other person-centered tools case managers can use to ensure people in service have choice and control throughout. DSPD continues individualized TA sessions for individual stakeholders with questions on person-centered planning. DSPD is an active participant for providers working towards Settings compliance.

Specifically for the New Choices Waiver (NCW):

- NCW has created the Person-Centered Care Plan (PCCP) Addendum and updated it to align with Settings guidance for Person-Centered Planning.
- Training for the PCCP Addendum was added to the annual Case Management Agency training for NCW. A recorded training on the Settings rule is available online for Case Manager (CM) and provider training.
- NCW has been working with NCAPPS since 2020 on increasing stakeholder engagement and enhancing Person-Centered Support Planning standards and procedures. Through this process we have established a case management workgroup to review different processes and implement changes, resources, and/or training to improve person-centeredness. So far this has included a new CM training on a case manager's role in ongoing monitoring for the Settings Rule and person-centered planning and a training on Memory Care placement with an emphasis on community integration and CMS guidance on wandering and elopement.

Description of how the state assesses providers for initial compliance and conducts ongoing monitoring for continued compliance.

Initial Compliance:

As documented in our State Transition Plan, our initial process was the following:
New Providers and existing HCBS providers with new settings: State will modify HCBS Waiver provider enrollment documents for all residential and non-residential providers to supply education and confirm compliance with HCBS setting requirements prior to enrolling new Medicaid providers. Providers will be required to certify that they have received information about and understand the HCBS setting requirements. The State has developed an Attestation form for new residential and non-residential HCBS providers and existing HCBS providers with new settings which states they will adhere to all

requirements of the Settings Rule. Providers are required to certify that they have received information about and understand the HCBS setting requirements. This has been incorporated into the Provider Enrollment process for all waiver programs. Providers may reach out to Operating Agency and State staff for guidance on the application of the rule. Indicators adapted from the Exploratory Questions to Assist States in Assessment of HCBS Settings are included with each characteristic in the Attestation document.

Our updated process currently in process is as follows:

New providers and existing HCBS providers with new settings must complete all of the new provider requirements located through the State's HCBS Settings Transition [Website](#) which includes training, a quiz, completion of setting self-assessment, and an attestation form. The HCBS Settings training is provided in different formats (live, online, recorded, etc. dependent on the Waiver). Evidence of compliance, Waiver provider enrollment documents, along with licensing requirements (if applicable) is reviewed prior to issuing a Settings Rule initial compliance. Technical assistance is provided to providers as needed. Once services have been rendered to HCBS Waiver individuals, then individual experience interviews are conducted to determine final compliance.

Specifically for our HCBS Waivers that fall under DSPD oversight, OSR does a pre-solicitation process for all potential new contractors wanting to provide direct care support for DSPD individuals receiving HCBS Waiver services. As part of this process we provide training on Settings Rule, review policies and procedures for settings rule and contract compliance, and conduct a leadership interview to gauge understanding of settings rule and how to provide compliant support. This is all done prior to potential contractors being able to be approved to contract as a DHHS/DSPD provider.

Ongoing Monitoring

Once overall compliance is achieved, strategies to ensure ongoing compliance for all residential and nonresidential providers will include:

Surveys

Specifically for our HCBS Waivers that fall under DSPD, National Core Indicator (NCI) surveys of a random sample of Individuals in any type of services are conducted annually. The NCI survey includes many questions around access to community, choice in services, and restrictions that may be present for Individuals.

Existing Participant Experience Surveys for DSPD HCBS Waivers have been updated to include questions pertaining specifically to the Settings Rule.

For HCBS Waivers without an existing Participant Experience Survey, a survey will be created to include questions pertaining specifically to the Settings Rule. Surveys will be

conducted a minimum of annually for a random sample size. Each HCBS Waiver will address setting specific trends from the Participant Experience Surveys with the Provider/setting and address aggregate trends through training and capacity building.

Annual Service Planning Processes:

The State piloted an Addendum to the care planning process for the New Choices Waiver beginning July 1, 2015. The State evaluated the pilot and made the required modifications. Similar process implemented for the Aging Waiver beginning October, 2018.

ABI and CSW waiver has initiated a PCSP workgroup in October 2018 to revise the PCSP process and software system (USTEPS).

Provider manuals and State Implementation Plans:

HCBS provider agreements/manuals/contracts will be updated to include requirements for ongoing compliance and initial enrollment. State Implementation Plans will be updated as amendments/renewals are processed.

Ongoing provider certification:

During State provided training sessions, providers will receive training/materials regarding the Settings Rule. The State will include education and ongoing monitoring of reverse integration. Providers cannot comply with the HCBS settings criteria by bringing individuals without disabilities from the community into the setting; compliance requires a plan to integrate individuals into the broader community.

Utah's existing quality assurance system:

- Ongoing incident report monitoring: State staff review each submitted level one incident report for Settings Rule compliance. Follow up information including corrective action necessary on the part of the provider, is monitored by State staff. This information is collected and addressed on an ongoing basis and trends are monitored as well.
- Case Coordinator monitoring: The State will provide training to Case Coordinators so they can ensure settings continue to comply with the Settings Rule. Ongoing settings monitoring is required for all settings including those settings that were determined as "presumed compliant" in the self-assessment process. Frequency and documentation of monitoring conducted by case coordinators will be determined prior to implementation no later than July 2020.
- Licensing: For all HCBS settings that require licensing currently, the State will provide training on the HCBS Settings Rule. If licensing encounters a settings compliance issue, they will report their concern.

- HCBS Waiver Reviews: The State will provide training and work with review staff for each HCBS Waiver to ensure all current monitoring tools used to review providers/settings will be revised to include settings rule requirements. Ongoing settings monitoring is required for those settings that were determined as “presumed compliant” in the self-assessment process. Reviews will be conducted annually for a random sample size. Current schedule and random sample size for each HCBS Waiver is being reviewed to determine if changes to current structure will be implemented.

Description of a beneficiary’s recourse to notify the state of provider non-compliance (grievance process, notification of case manager, etc.) and how the state will address beneficiary feedback.

The following is located on our STP:

The public may provide ongoing feedback:

- Through the State’s HCBS Transition [Website](#) which accepts public comments by fax or by written correspondence with the State.
- Individuals receiving Waiver HCBS services or their guardian or authorized representative will have the opportunity to complete the Medicaid HCBS Consumer Survey providing feedback on the setting(s) they receive services in.
- Through an email dedicated to the Settings Rule Transition. Feedback, general questions, a request for technical assistance, or any other settings related inquiry can be submitted to HCBSSettings@utah.gov.

All feedback received that is setting specific will be added to provider remediation plans and providers will be given the opportunity to rectify any discrepancies. Non-setting specific feedback will be used to inform the State’s training, capacity building, and technical assistance focus.

The following information is located on the **HCBS Settings rule Corrective Action Plan (CAP)** document:

Stakeholders may give ongoing feedback on a setting’s compliance status through any of the following methods:

- Through the State’s HCBS Settings Transition [Website](#) where the following [link](#) may be used to supply information on specific settings believed to have issues demonstrating compliance with the HCBS Settings Rule.

- Feedback, general questions, a request for technical assistance, or any other inquiries can also be submitted through an email that is HCBS Settings specific at HCBSSettings@utah.gov.

All feedback received that is setting specific will be added to provider remediation plans and providers will be given the opportunity to rectify any discrepancies. Non-setting specific feedback will be used to inform the State's training, capacity building, and technical assistance focus.

Specifically for our HCBS Waivers that fall under DSPD, Individuals can reach out to their individual support coordinator, the DSPD constituent services team, the OSR quality management team, Office of Licensing, the HCBS Settings team, or directly to DSPD or DHHS leadership when issues or concerns arise and a DHHS staff will be assigned to review the issue/concern and follow up. This can include contract action, license action, APS/CPS referrals, etc as determined necessary based upon the situation. OSR reviews DHHS/DSPD contractor grievance procedures to ensure they are being reviewed with Individuals and families and they include information regarding processes for reporting concerns within each agency.