

# A Local Approach

## HCBS Settings Rule

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## Panel

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- Bill Eaton- Newstart
- Wendy Yates- Aim High
- Karen Towery- Evergreen
- Sherrie Donahue Brown- Behaviorist on Call
- Neilee Weir- MHMR Tarrant

# What We Know

- CMS has published the HCBS Settings Rule in 2014 and has extended the implementation date to March 2022.
- Providers have had few opportunities to hear about the Settings Rule.
- We know that the changes will have a significant impact on service delivery.
- We know the changes will have a significant impact on service coordination including discovery, monitoring, and documenting.
- We know the Rule change will require a higher level of collaboration and sophistication in service planning and delivery.
- HHSC must determine situations or settings that are not in compliance and require a remediation plan prior to March 2022.
- CMS may be required to review settings that tend to isolate the person or have characteristics of an institution.

## What We Don't Know

- How the TAC will be modified to meet the Settings Rule.
- What funding will be available to help providers come into compliance.
- Will there be new services or modifications to current services.
- What impact will there be on survey/certification and possible administrative penalties.
- State Transition Plan is posted on HHSC's website but is not final.
- We don't know what settings will require further study by HHSC or CMS.

# What Tarrant County is Doing

- Formed an HCBS Advisory of HCS providers, subcontracted providers and service coordination representatives.
- Gathered as a small group to be better informed about the HCBS Settings Rule.
- We are reviewing information that is available on the HHSC and CMS websites.
- Discussing possible challenges around implementation.
- Having meaningful discussions about the role of providers and Service Coordinators.
- Gathering information from other providers and identifying best practices or innovative ideas in employment and community integration.
- Developing a Local Plan to help other providers become better informed.

## Settings Rule: Engagement and Inclusion

- Setting is integrated in and does not tend to isolate the person from the larger community.
- Interests and skills are assessed and discussed when planning or facilitating engagement.
- Free access to the community, residential facility and day habilitation setting unless modifications are discussed and documented in the plan.
- Opportunities to seek employment and work in competitive, integrated settings.
- Engage in community life based on interests.
- Settings do not have characteristics of an institution.

# How to Support Engagement and Inclusion and Red Flags

- Possible ways to demonstrate the principle:
  - Choice of employment and inclusive community activities (e.g. not just group activities).
  - Opportunities to contribute to their community.
  - Teach skills that will be helpful during inclusive activities (e.g. safety skills, making good choices).
  - Researching Community Activities related to the person's interests.
  - Identify barriers and assist the person to overcome.
- Red Flags:
  - Little or no engagement with community. Staying mainly in the facility.
  - Few options offered that are meaningful and individualized.
  - Options are not based on interests or priorities of the person.
  - Only leave in large groups and interactions with only people with disabilities.
  - Activities are not related to interests or skills.

## Settings Rule: Choice and Independence

- Settings optimize rather than regiment the person's autonomy.
- People are encouraged to freely choose and control their schedules.
- People are encouraged to move about their environments freely.
- Have access to information about transportation to enhance community access.
- Use of the telephone to talk to friends and family.



# How to Support Choice and Independence and Red Flags

- Possible ways to demonstrate the principle:
  - Develop skills in making good choices.
  - Help the person exercise more control and independence in all settings (e.g. choices related to food, schedule, friends)
  - Identify areas where people need support in making choices.
  - Opportunity for the person to provide input.
  - Choice of services and supports.
  - Written agreement regarding room and board.
- Red Flags:
  - Regimented Schedules—all having lunch at the same time in assigned seats.
  - Classrooms or groups that you can't leave without permission.
  - Are unable to eat when they eat meals or snacks.
  - Visitors are restricted.

## Settings Rule: Respect, Dignity, Privacy

- Setting ensures a person's rights of privacy, dignity, respect, and freedom from coercion and restraint.
- Setting encourages individual choice of who provides support and services.
- Information is kept private.
- People can safeguard their belongings when they are in different settings.
- Provider has a written agreement with the person regarding room and board. People have the same ejection rights as others with a lease.
- People choose their friends, roommates, and relationships.

# How to Support Respect, Dignity and Privacy and Red Flags

- Possible ways to demonstrate the principle:
  - Don't talk about or for the person.
  - Help the person learn how to answer typical questions (e.g. what's your name, what do you like to do, etc.)
  - Any discussions about problems should be dealt with discreetly.
  - Find out the person's "comfort zone" in terms of privacy.
  - Teach people how to self-advocate.
  - Knock on doors before entering.
  - Teach skills related to facilitating their planning process.
- Red Flags
  - Staff talks disrespectfully about the person around others.
  - Staff uses names such as "honey, baby" instead of using names.
  - Staff coerce the person when they have made an informed choice.
  - Food, snacks, or other things are withheld without proper rights modifications.

# Settings Rule: How will Planning and Discovery Change

- Any restriction that would not allow the free access to environment must document specific reasons and make modifications as detailed in the Settings Rule.
- Plan must document the person's choice in settings, services, roommates, friends, employment, schedules, and who provides supports.
- Plan should document interest in exercising certain rights.
- How will we help our staff learn how to support people in a new way—encouraging independence and understanding what is significant to the person.
- Planning process engages and encourages the person in decision making.
- Activities, supports, and services help develop skills to achieve meaningful outcomes.
- Plan documents and reflects the choices offered.
- Planning must reflect specific interest areas.

## Next Steps

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- Other areas might be interested in developing the same opportunity for providers.
- Collaboration with service coordinators as we will be partners in this endeavor.
- Questions or suggestions for our group?

## What Now?

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*Although we don't know a lot of specifics...*

*We do know that the Rule is about a person's quality of life. It is about respecting the person as a unique individual, an irreplaceable human being. Someone like us.*