



## POLICY AND PROCEDURE MANUAL

SUBJECT: Home and Community Based Services	ACCOUNTABILITY NMRE Network Providers that render HCBS services	Effective Date: October 7, 2025	Pages: 2
REQUIRED BY The Home and Community Bases Services Final Rule	BBA Section: PIHP Contract Section: Other: 42 CFR §441.710, 42 CFR §441.530, 42 CFR §441.301 C and HCBS Final Rule	Last Review Date:	Past Review Date:
Policy: <input checked="" type="checkbox"/>  Procedure: <input type="checkbox"/>	Review Cycle: Annual  Author: Chief Clinical Officer	Responsible Department: Clinical/Waivers	Reviewers: NMRE CEO

### Definitions

**Beneficiary:** A person served by the publicly funded behavioral health and substance use disorder system or their representative.

**Home and Community Based Services (HCBS):** Provides Medicaid beneficiaries opportunities to receive services in their own home or community rather than institutions or other isolated settings.

**The Home and Community Based Services (HCBS) Final Rule:** A regulation that ensures people with disabilities receive services in integrated community settings. The rule also protects their right to make choices and control their lives.

**Individual Plan of Services (IPOS):** The written details of the supports, activities, and resources required for the individual to achieve personal goals. An individual and his/her team are responsible for developing the individual plan of services.

**Network Provider:** Any provider that receives Medicaid funding directly or indirectly to order, refer, or render covered services pursuant to the NMRE's Specialty Supports and Services Contract with the State, including its five member CMHSPs and the Substance Use Disorder Provider Panel.

**Person-centered Planning:** The process for planning and supporting the individual receiving services. It builds upon the individual's capacity to engage in activities that promote community life and honors the individual's preferences, choices, and abilities.

**Reverse Integration –** When a setting brings providers from the community into it to provide services instead of taking the individual into the community to receive the services.

Purpose

The purpose of this policy is to ensure consistent understanding and compliance with the Home and Community Based Services Final Rule.

Policy

It is the policy of the NMRE to comply with the Home and Community Based Services Final Rule, which is designed to enhance individuals' quality of life by enabling them to live and receive services in the least restrictive environment, ensuring full community integration.

Approval Signature

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NMRE Chief Executive Officer

October 7, 2025

Date

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### Procedure

- A. The NMRE will ensure that its network providers comply with HCBS requirements through ongoing performance monitoring processes.
- B. Home and community-based settings must meet the following qualifications:
  1. The setting must be integrated in, and support full and meaningful access 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 of beneficiaries not receiving HCBS services;
  2. Be selected by the beneficiary from among setting options, including non-disability-specific settings and an option for a private room in a specialized residential setting. Setting options are identified and documented in the individual plan of services and are based on the beneficiary's needs and preferences, and, for residential settings, the resources available for room and board.
    - a. Ensure meaningful community-based activities that align with individuals expressed interests are offered no less than two times per week. The provider is responsible for ensuring that selected outings are meaningful to the individual.
    - b. There must be documentation of discussions around individuals' movement toward a less restrictive residential living arrangement and the full array of available placement options including non-disability specific settings. Providers and/or settings should be documented by name.
    - c. Detailed discussion should include an individual's goals and outcomes specific to the development of independent living skills that would allow movement into a less restrictive setting.
    - d. Documentation of alternative services and/or supports are considered but not chosen.
  3. Ensure the beneficiary's right of privacy, dignity, respect, and freedom from coercion or restraint;
  4. Optimize autonomy and independence in making life choices; and
  5. Facilitate choice regarding services and who provides them.

- C. Beneficiaries must have the ability to access the following:
1. A lease or other legally enforceable agreement that provides protection from eviction;
  2. Privacy in their room, including lockable doors, choice of roommates, and freedom to furnish or decorate the room;
  3. Control of their own schedule, including access to food at any time;
  4. The ability to have visitors at any time; and
  5. A setting that is physically accessible.
- D. Modification or restriction of a beneficiary's rights must be based on the health and safety risks and be documented in their individual plan of services (IPOS). Health or safety needs are the only acceptable justifications for restricting a beneficiary's rights and freedom of movement, setting-wide restrictions are not HCBS compliant. Restrictions may only be placed upon a Medicaid recipient when there is an HCBS compliant modification documented in the person's IPOS. The service plan elements related to modification of the beneficiary's rights and freedoms must include:
1. Identification of a specific and individualized assessed need.
  2. Documentation of the positive interventions and supports used prior to any modifications to the IPOS.
  3. Documentation of less intrusive methods of meeting the need that have been tried but did not work.
  4. A clear description of the condition that is directly proportionate to the specific assessed need.
  5. Regular collection and review of data to measure the ongoing effectiveness of the modification.
  6. Established time limits for periodic reviews to determine whether the modification continues to be necessary or can be withdrawn.
  7. A titration or fade plan that outlines the changes in behaviors and associated timeframes to reduce and/or remove the need for the modification.
  8. Identified services or support that will be provided to support the development of skills to reduce the need for modification of the HCBS Final Rule.
  9. The informed consent of the beneficiary.
  10. Assurance that interventions and supports will cause no harm to the beneficiary.
- E. When a setting is reviewed and deemed out of compliance, the CMHSP will begin appropriate remediation processes to address any noted deficiencies as outlined in the NMRE Home and Community Based Services Provisional Approval and the NMRE's Home and Community Based Services Provisional Approval and Ongoing Monitoring policy and procedure.
- F. Home and Community Based Services Provisional Approval and Ongoing Monitoring Settings that are presumed to not meet the HCBS requirements are:

1. Those in a publicly or privately owned facility providing inpatient treatment;
  2. On the grounds of, or adjacent to, a public institution;
  3. Any that otherwise have the effects of isolating individuals from the broader community of individuals who are not receiving Medicaid HCBS.
- G. The HCBS Final Rule applies to both residential (where an individual lives) and non-residential (where individuals go to receive services) settings. The goal of these requirements is to promote community integration and ensure that beneficiaries receiving Medicaid HCBS have the same opportunities as those not receiving these services in similar settings.
- H. The HCBS Requirements for Residential Settings apply to provider-owned or controlled residential settings. A beneficiary's private home is presumed to be compliant with HCBS requirements.
1. **Access to Meals:** Beneficiaries must always have access to food, with options they enjoy and choose.
  2. **Visitors:** Beneficiaries must be able to have visitors of their choice at any time.
  3. **Lockable Doors:** Bedrooms and bathrooms must have doors that are lockable from the inside, with only staff holding keys. The doors should open easily from the inside in case of emergency (also referred to as positive-latching, non-locking-against egress hardware). If the setting utilizes keypads, the individual must have a unique code and have manual dexterity and capacity to utilize the keypad.
  4. **Freedom to Decorate:** Beneficiaries must be able to decorate and furnish their rooms as they prefer. In shared rooms, they can collaborate with their roommate(s) on furnishings and décor.
  5. **Roommate Choice:** Beneficiaries must be able to choose their roommate when possible. In some cases, there may be limited beds in a setting. In this case, the beneficiary's choice of that provider will serve as an acknowledgement that they are choosing that bed/provider knowing they do not have the ability to choose their roommate.
  6. **Control over Schedule and Activities:** Beneficiaries must have control over their daily schedules, activities, and resources. Assistance should be provided only as needed or desired by the beneficiary. Beneficiaries must also have the ability to decline to participate in an activity without negative repercussions.
  7. **Privacy:** Beneficiaries are entitled to privacy in their homes including physical privacy, as well as keeping their confidential information private.
  8. **Accessibility:** Each setting must be physically accessible to the beneficiaries residing there so that they may function as independently as they wish. Beneficiaries must be able to move around in the setting without physical barriers getting in their way. Beneficiaries should be given unfettered access to all common, licensed areas of the setting.
  9. **Evictions and Appeals:** Beneficiaries must have a legally enforceable agreement that offers similar eviction protections as those provided by landlord/tenant laws, or a similar agreement for settings not governed by those laws. This will be accomplished using:

- a. The Residential Care Agreement (RCA);
  - b. HCBS Summary of Resident Rights. A signed copy of this document will be available at any time in the record.
- 10. **Free of House Rules:** House rules are not permitted.
- 11. **Control of Personal Resources:** Beneficiaries must be able to control their personal resources as required by the HCBS Final Rule.
- I. HCBS Requirements for Non-Residential Settings or Services apply to provider-owned or controlled residential settings.
  - 1. **Skill Building Assistance:** This service provides beneficiaries with opportunities for meaningful, non-work activities in community settings, helping them develop skills for self-sufficiency and participation in activities like school, work, or volunteering.
  - 2. **Community Living Supports (CLS):** CLS promotes community inclusion, independence, and productivity. It provides beneficiaries with opportunities to engage in community activities similar to those available to individuals of the same age and interests who don't receive Medicaid HCBS.
  - 3. **Supported Employment:** This service combines ongoing support with paid employment, allowing beneficiaries to work in integrated community settings alongside non-disabled individuals.
  - 4. **Adult Day Care:** Adult day care programs must offer activities for individuals that are comparable to those for similar individuals who aren't receiving Medicaid HCBS. There should be interaction between individuals who receive Medicaid HCBS and those who do not, with opportunities for integration into the larger community. If individuals need supervision to move around, that supervision must be provided.

Non-Residential providers must demonstrate that these services are delivered within.

- J. Settings not compliant with the HCBS Final Rule
  - 1. Nursing Facilities
  - 2. Institutions for Mental Disease
  - 3. Intermediate Care Facilities for Individuals with Intellectual Disabilities
  - 4. Hospitals
  - 5. Other locations that have characteristics of an institution (e.g., Child Caring Institutions).
- K. Reverse integration does not make a setting compliant with the HCBS Final Rule. While it is acceptable to have some providers come into the setting, this must not be the only contact with community providers allowed for beneficiaries of HCBS.
- L. Beneficiaries must have the option to go out into the community and participate with providers of their choice.

- M. The NMRE and its network providers are responsible for conducting ongoing monitoring activities to ensure settings remain in compliance with the HCBS Final Rule as outlined in the NMRE Home and Community Based Services Provisional Approval and Ongoing Monitoring policy and procedure

Approval Signature

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NMRE Chief Executive Officer

October 7, 2025

Date