

## **Provider Self-Assessment of Settings in which Home and Community-Based Services are Provided**

1. Provider agency name:

Provider number:

Individual completing survey

Telephone number of individual completing survey

Email address of individual completing survey

### Background

The Centers for Medicare and Medicaid (CMS) has amended Medicaid regulations to include home and community-based setting requirements, 42 CFR 441.300 – 441.304. The purpose of these regulations is to ensure recipients receive services in integrated community settings that are appropriate to their needs and that provide full access to the benefits of community living. CMS has directed the states that receive Medicaid funding to verify that services are provided in settings that have the qualities required for home and community-based services.

To meet the requirements of the mandatory setting verification process, Senior and Disabilities Services (SDS) has developed this self-assessment survey for SDS-certified home and community-based services providers

- to guide provider agencies through the new federal regulations with clarification of what is, and is not, a home and community-based setting
- to provide an opportunity for provider agencies to analyze the qualities of their service settings
- to alert provider agencies of the need to identify and make any improvements to policies, procedures, or the physical environment that would make the setting consistent with the CMS-defined qualities of a home and community-based setting.

### Survey information

Your agency should submit only one online survey, whether home and community-based services are provided in one setting or in multiple settings. Please evaluate each setting in which home and community-based services are provided as a separate entity when considering the survey questions. If all settings have the quality under consideration, indicate this on the survey. If, however, even one of multiple settings does not have the quality, indicate the name and address of the setting, and what the agency will do to make the setting consistent with the regulation.

The survey has two parts: Part One is applicable to all settings, including provider-owned or controlled residential settings; Part Two is applicable only to residential settings.

- Review all non-residential settings using the questions in Part One only.
- Review all provider-owned or controlled residential settings using Part One and Part Two

Thank you for your cooperation and assistance in this endeavor as together we work to enhance the quality of Medicaid home and community-based services.

## **PART ONE**

### **Home and community-based services settings**

The questions in Part One apply to all settings, including provider-owned or controlled residential settings.

#### Instructions

Consider each setting in which home and community-based services are provided as a separate entity when answering questions.

For each setting where waiver services are provided to recipients

- review the setting quality, the federal regulation, and statement program impact
- answer the questions related to the regulation
- for each setting that does not meet the CMS-defined quality addressed by the question, list the name and address of the setting and describe what the agency will do to make that setting consistent with the regulation

## Setting quality: NON-INSTITUTIONAL CHARACTERISTICS

### Federal regulation

42 CFR 441.301 (c)(5) A location that has the qualities of an institutional setting is presumed to lack the qualities of a home and community based (HCB) setting, including the following:

- A setting that is located in a building that is a publicly or privately operated facility that provides inpatient institutional treatment
- A setting that is located in a building on the grounds of, or immediately adjacent to a public institution
- A setting that isolates recipients from the broader community of individuals who do not receive waiver services

### Program impact

Waiver services may be provided only in locations that have the qualities of a home and community-based setting. Some locations, defined in the regulation, are presumed to lack such qualities because they isolate recipients from the community.

### Self-assessment questions

2. **Is any setting in which the agency provides waiver services located in a building that is**
- **a publicly or privately operated facility that provides inpatient institutional treatment, or**
  - **on the grounds of, or immediately adjacent to a public institution?**

- Yes.** For each setting that does not meet this requirement, list the name and address of the setting, and what the agency will do to bring it into compliance
- No**

3. **Does any setting in which the agency provides waiver services isolate recipients from the broader community of individuals who do not receive waiver services?**

*CMS Guidance* When assessing settings to answer these question, consider this list of characteristics that may indicate a setting that isolates:

- *The setting is designed specifically for people with disabilities*
- *The setting is designed to provide people with disabilities multiple types of services and activities on-site*
- *Individuals in the setting are primarily or exclusively people with disabilities*
- *Individuals in the setting have little, if any, interaction with other others in the broader community*

*In addition, consider whether any setting could be one of the following types of settings that have the effect of isolating recipients:*

- *Farmstead or disability-specific farm/ranch community*
- *Gated or secured community specifically for persons with disabilities*
- *Residential schools*
- *Multiple settings operationally related and near each other (for example, group homes in close proximity)*

- Yes.** For each setting that does not meet this requirement, list the name and address of the setting, and what the agency will do to bring it into compliance.
- No**

**Setting quality: COMMUNITY INTEGRATION AND SUPPORT FOR RECIPIENT PARTICIPATION**

Federal regulation

42 CFR 441.301 (c)(4)(i) Home and community-based settings must be integrated in and support full access by recipients 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 waiver services.

Program impact

Waiver services may be provided only in settings that are integrated in the community and support recipients who choose to participate in community life in the same way non-recipients participate.

Self-assessment questions

**4. Do all settings in which the agency provides waiver services provide opportunities and support for recipients who wish to seek employment in competitive, integrated settings?**

*CMS guidance* The purpose of this regulation is to ensure provider support for recipients who choose to work. When assessing settings to answer the following question, evaluate whether recipients (including those who do not receive supported employment services) have the freedom, and support from provider staff, to seek employment in the community.

Yes

No. For each setting that does not meet this requirement, list the name and address of the setting, and what the agency will do to bring it into compliance

**5. Do all settings in which the agency provides waiver services provide opportunities for recipients to participate in community life and to receive services in the community?**

Yes

No. For each setting that does not meet this requirement, list the name and address of the setting, and what the agency will do to bring it into compliance

**6. Do all settings in which the agency provides waiver services provide opportunities for recipient control of personal resources?**

Yes

No. For each setting that does not meet this requirement, list the name and address of the setting, and what the agency will do to bring it into compliance.

## Setting quality: SELECTION OF SETTING BY THE RECIPIENT

### Federal regulation

*42 CFR 441.301 (c)(4)(ii) The setting is selected by the recipient from among setting options including non-disability specific settings and an option for a private unit in a residential setting. The settings options are identified and documented in the person-centered service plan and are based on the recipient's needs, preferences, and, for residential settings, resources for room and board.*

### Program impact

Waiver services may be provided only in settings that are selected by the recipient from among settings that are not designed for or limited to people with disabilities.

### Self-assessment questions

**7. Are the needs and preferences of recipients taken into consideration when they are offered options for settings in which the agency provides waiver services?**

**Yes**

**No.** For each setting that does not meet this requirement, list the name and address of the setting, and what the agency will do to bring it into compliance

**8. Are any settings in which waiver services are provided designed for or used primarily by people with disabilities?**

**Yes**

**No.** For each setting that does not meet this requirement, list the name and address of the setting, and what the agency will do to bring it into compliance

**9. Are recipients offered the choice of receiving waiver services in non-disability specific settings?**

**Yes**

**No.** For each setting that does not meet this requirement, list the name and address of the setting, and what the agency will do to bring it into compliance.

**Setting quality: SUPPORT OF RECIPIENT RIGHTS AND  
FREEDOM FROM COERCION AND RESTRAINT**

Federal regulation

*42 CFR 441.301 (c)(4)(iii) The setting ensures the recipient's rights of privacy, dignity, and respect, and freedom from coercion and restraint in settings where waiver services are provided.*

Program impact

Waiver services may be provided only in settings that ensure recipient rights of privacy, dignity, and respect, and freedom from coercion and restraint.

Self-assessment questions

**10. Do all settings in which the agency provides waiver services have a process for protecting the privacy, dignity, and respect of recipients?**

**Yes**

**No.** For each setting that does not meet this requirement, list the name and address of the setting, and what the agency will do to bring it into compliance

**11. Do all settings in which the agency provides waiver services have a process for protecting recipients from coercion and restraint?**

**Yes**

**No.** For each setting that does not meet this requirement, list the name and address of the setting, and what the agency will do to bring it into compliance.

**Setting quality: PROMOTION OF RECIPIENT INITIATIVE, AUTONOMY, AND INDEPENDENCE  
IN MAKING LIFE CHOICES**

Federal regulation

42 CFR 441.301 (c)(4)(iv) *The setting optimizes, but does not regiment, recipient initiative, autonomy, and independence in making life choices, including but not limited to daily activities, physical environment, and with whom to interact in settings where HCB services are provided.*

Program impact

Waiver services may be provided only in settings that optimize recipient initiative, autonomy and independence in making life choices.

Self-assessment questions

**12. Do all settings in which the agency provides waiver services provide opportunities and support for recipients to use their initiative, autonomy, and independence in making life choices?**

**Yes**

**No.** For each setting that does not meet this requirement, list the name and address of the setting, and what the agency will do to bring it into compliance

**13. Do all settings in which the agency provides waiver services optimize opportunities for recipients to make choices regarding daily activities?**

*CMS guidance Recipients must have choices regarding activities including whether to participate in a group activity or to engage in other activities that may or may not be pre-planned.*

**Yes**

**No.** For each setting that does not meet this requirement, list the name and address of the setting, and what the agency will do to bring it into compliance

**14. Do all settings in which the agency provides waiver services optimize opportunities for recipients to make choices regarding the physical environment?**

*CMS guidance Physical settings must meet recipient needs by being accessible, and should not appear to be the same for everyone; for example, recipients must have choices regarding room décor and furnishings so that the setting does not appear to be institutional in nature.*

**Yes**

**No.** For each setting that does not meet this requirement, list the name and address of the setting, and what the agency will do to bring it into compliance

**15. Do all settings in which the agency provides waiver services optimize opportunities for recipients to choose with whom to interact?**

**Yes**

**No.** For each setting that does not meet this requirement, list the name and address of the setting, and what the agency will do to bring it into compliance.

**Setting quality: RECIPIENT CHOICE OF SERVICES AND SUPPORTS  
AND OF STAFF WHO RENDER THEM**

Federal regulation

*42 CFR 441.301 (c)(4)(v) The setting facilitates recipient choice regarding services and supports, and who provides them in settings where HCB services are provided.*

Program impact

Waiver services may be provided only in settings that facilitate recipient choice of services and supports and choice of agency staff that provide those services and supports.

Self-assessment questions

- 16. Do all settings in which the agency provides waiver services facilitate recipient choice regarding**
- services and supports, and**
  - agency staff that provide those services and supports?**

**Yes**

**No.** For each setting that does not meet this requirement, list the name and address of the setting, and what the agency will do to bring it into compliance.

**END OF PART ONE**

Complete Part Two if the agency owns or controls residential settings in which waiver services are provided.

## **PART TWO**

### **Provider-owned or -controlled residential settings: additional conditions**

The questions in Part Two apply to provider-owned or controlled residential settings only.

#### Instructions

Consider each setting in which home and community-based services are provided as a separate entity when answering questions.

For each setting where waiver services are provided to recipients

- review the setting quality, the federal regulation, and statement program impact
- answer the questions related to the regulation
- for each setting that does not meet the CMS-defined quality addressed by the question, list the name and address of the setting and describe what the agency will do to make that setting consistent with the regulation

## Setting quality: SELECTION OF SETTING BY THE RECIPIENT

### Federal regulation

*42 CFR 441.301 (c)(4)(ii) The setting is selected by the recipient from among setting options including non-disability specific settings and an option for a private unit in a residential setting. The settings options are identified and documented in the person-centered service plan and are based on the recipient's needs, preferences, and, for residential settings, resources for room and board.*

### Program impact

Waiver services may be provided only in settings that are selected by the recipient from among settings that are not designed for or limited to people with disabilities. For residential services, the options must take into consideration recipient resources for room and board, and whether those resources would cover the cost of a private unit in the chosen residential setting.

### Self-assessment questions

**17. Does each provider-owned or controlled residential setting offer recipients the choice of a private unit?**

**Yes**

**No.** For each setting that does not meet this requirement, list the name and address of the setting, and what the agency will do to bring it into compliance

**18. Are recipients offered residential setting options on the basis of their resources for room and board?**

**Yes**

**No.** For each setting that does not meet this requirement, list the name and address of the setting, and what the agency will do to bring it into compliance.

**Setting quality: RECIPIENT LEGAL RIGHT TO A SPECIFIC PHYSICAL PLACE  
AND PROTECTION FROM EVICTION**

Federal regulation

*42 CFR 441.301 (c)(4)(vi)(A) The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the recipient, and the recipient 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.*

Program impact

Waiver services in provider-owned or -controlled residential settings must operate under the terms of a legally enforceable agreement that provides the same responsibilities and protections available to non-recipients in similar rental or ownership arrangements.

Self-assessment questions

**19. Do all provider-owned or -controlled residential settings in which waiver services are provided enter into legally enforceable agreements with recipients addressing responsibilities and protections from eviction that are the same as tenants have under the landlord/tenant law of the jurisdiction in which the residential setting is located?**

**Yes**

**No.** For each setting that does not meet this requirement, list the name and address of the setting, and what the agency will do to bring it into compliance.

**Setting quality: RECIPIENT RIGHT TO PRIVACY, INCLUDING  
LOCKABLE DOORS AND CHOICE OF ROOMMATE**

Federal regulation

42 CFR 441.301 (c)(4)(vi)(B) *Each recipient must have privacy in his/her sleeping or living unit in settings where waiver services are provided.*

- (1) *Units must have entrance doors lockable by the recipient with only appropriate staff having keys to the doors.*
- (2) *Recipients sharing units must have a choice of roommates in the setting.*
- (3) *Recipients must have freedom to furnish and decorate their units within the lease or other agreement.*

Program impact

Waiver services may be provided only in settings that make privacy in sleeping or living units available for recipients.

Self-assessment questions

**20. In all provider-owned or -controlled residential settings in which waiver services are provided, are the entrance doors to the sleeping or living units lockable by the recipients who reside in those units?**

- Yes**
- No.** For each setting that does not meet this requirement, list the name and address of the setting, and what the agency will do to bring it into compliance

**21. Do all provider-owned or -controlled residential settings in which waiver services are provided limit key availability so that only appropriate staff can enter the sleeping or living units of recipients?**

- Yes**
- No.** For each setting that does not meet this requirement, list the name and address of the setting, and what the agency will do to bring it into compliance

**22. Do all provider-owned or -controlled residential settings in which waiver services are provided ensure that recipients have a choice of roommates if sleeping or living units are shared?**

- Yes**
- No.** For each setting that does not meet this requirement, list the name and address of the setting, and what the agency will do to bring it into compliance

**23. Do all provider-owned or -controlled residential settings in which waiver services are provided have a lease or other rental agreement that addresses how recipients may furnish and decorate their units?**

- Yes**
- No.** For each setting that does not meet this requirement, list the name and address of the setting, and what the agency will do to bring it into compliance.

**Setting quality: RECIPIENT CONTROL OF SCHEDULES AND ACTIVITIES, AND ACCESS TO FOOD**

Federal regulation

*42 CFR 441.301 (c)(4)(vi)(C) Recipients must have the freedom and support to control their own schedules and activities, and to have access to food at all times in settings where waiver services are provided.*

Program impact

Waiver services may be provided only in settings that support recipient control of their own schedules and activities, and make food available to recipients at all times.

Self-assessment questions

**24. Do all provider-owned or -controlled residential settings in which waiver services are provided extend to recipients the freedom to control their own schedules and activities, and provide the support to enable them to do so?**

**Yes**

**No.** For each setting that does not meet this requirement, list the name and address of the setting, and what the agency will do to bring it into compliance

**25. Do all provider-owned or -controlled residential settings in which waiver services are provided make food available to recipients at all times?**

*CMS Guidance If a recipient misses a regularly scheduled meal, the nutritional equivalent must be made available at a time convenient to the recipient. Provision must be made for access to safe storage and heating of food, e.g., microwave and refrigerator, either in the recipient's sleeping area or a common area accessible to the recipient. The recipient must have access to snacks at any time the recipient chooses. Exceptions to this requirement may be made if justified in accordance with 42 CFR 441.301 (c)(4)(vi)(F).*

**Yes**

**No.** For each setting that does not meet this requirement, list the name and address of the setting, and what the agency will do to bring it into compliance.

**Setting quality: RECIPIENT RIGHT TO HAVE VISITORS AT ANY TIME**

Federal regulation

*42 CFR 441.301 (c)(4)(vi)(D) Recipients must be able to have visitors of their choosing at any time in settings where waiver services are provided.*

Program impact

Waiver services may be provided only in settings that allow recipients to have visitors at any time.

Self-assessment questions

**26. Do all provider-owned or -controlled residential settings in which waiver services are provided allow recipients to have visitors of their choosing at any time?**

**Yes**

**No.** For each setting that does not meet this requirement, list the name and address of the setting, and what the agency will do to bring it into compliance.

**Setting quality: PHYSICAL ACCESSIBILITY FOR RECIPIENT**

Federal regulation

*42 CFR 441.301 (c)(4)(vi)(E) The settings where waiver services are provided must be physically accessible for the recipient.*

Program impact

Waiver services may be provided only in settings that physically accessible for the recipient.

Self-assessment questions

**27. Do all provider-owned or -controlled residential settings in which waiver services are provided ensure that the settings are physically accessible for the recipient?**

**Yes**

**No.** For each setting that does not meet this requirement, list the name and address of the setting, and what the agency will do to bring it into compliance.

**Setting quality: CHANGES TO REQUIREMENTS MADE ONLY WHEN JUSTIFIED  
TO MEET RECIPIENT NEED**

Federal regulation

42 CFR 441.301 (c)(4)(vi)(F) Any modification of the conditions, under 42 CFR 441.301 (c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan. To justify a modification, the following must be documented:

*A specific and individualized assessed need*

- *The positive interventions and supports used prior to any modifications to the service plan*
- *The less intrusive methods of meeting the need that have been tried, but did not work*
- *A description of the condition that lead to the specific assessed need*
- *A plan for regular collection and review of data to measure the ongoing effectiveness of the modification*
- *Time periods for periodic review to determine if the modification continues to be necessary or can be terminated*
- *The informed consent of the recipient*
- *Assurances that the interventions and supports will cause no harm to the recipient*

Program impact

Waiver services may be provided only in settings where the additional conditions for provider-owned or controlled residential settings are not changed except to meet the specific, assessed needs of recipients, and all changes are justified and documented.

Self-assessment questions

**28. Do all provider-owned or -controlled residential settings in which waiver services are provided have a protocol for modification of the conditions applicable to those settings [specified in 42 CFR 441.301 (c)(4)(vi)(A) through (D)] that addresses all the requirements?**

**Yes**

**No.** For each setting that does not meet this requirement, list the name and address of the setting, and what the agency will do to bring it into compliance.