

DOES YOUR FACILITY MEET THE REGULATORY REQUIREMENTS FOR HOME AND COMMUNITY-BASED SETTINGS?

THE FOLLOWING CHARACTERISTICS ARE EXPECTED TO BE PRESENT IN ALL HOME AND COMMUNITY-BASED SETTINGS:

For 1915(c) home and community-based waivers and for 1915(i) State plan home and community-based services, HCBS must have all the following qualities defined at §441.301(c)(4) and §441.710 respectively.

Individuals should...

- Select the setting
- Participate in unscheduled and scheduled community activities
- Be employed or active in the community outside of the setting
- Have their own bedroom or share a room with a roommate of choice
- Choose and control their schedule in accordance with a person-centered plan
- Control their personal resources
- Choose when and what to eat
- Choose who they eat with or to eat alone
- Have choices incorporated into the services and supports received
- Choose from whom they receive services and supports
- Have access to make private calls/texts/emails at their preference and convenience
- Be free from coercion and restraint
- Have an active role in their person-centered plan (or a person chosen by them)
- Not be isolated from the broader community
- Not be limited in choices due to state laws, regulations, licensing requirements, or facility protocols
- Have unrestricted access in the setting
- Have a physical environment that meets their needs
- Have full access to the community
- Have the right to dignity and their privacy respected
- Dress in their preference of clothes appropriate to the time of day and weather
- Be communicated to by staff in a dignified manner



Characteristics that are expected to be present in all provider-owned or controlled home and community-based settings:

- Modifications of the setting requirements for an individual are supported by an assessed need and justified in the person-centered plan
- Individuals have privacy in their sleeping space and toileting facility
- The individual has privacy in their living space
- The individual has comfortable places for private visits with family and friends
- Individuals furnish and decorate their sleeping and/or living units in the way that suits them
- There is a legally enforceable agreement for the unit or dwelling where the individual resides
- Individuals are protected from eviction and afforded appeal rights in the same manner as all persons in the State who are not receiving Medicaid HCBS

SETTINGS THAT ARE PRESUMED TO HAVE THE QUALITIES OF AN INSTITUTION:

For 1915(c) home and community-based waivers, section 441.301(c)(5)(v) specifies that the following settings are presumed to have the qualities of an institution:

- Any setting that is located in a building that is also a publicly- or privately-operated facility that provides inpatient institutional treatment
- Any setting located in a building on the grounds of, or immediately adjacent to, a public institution
- Any other setting that has the effect of isolating individuals receiving Medicaid HCBS from the broader community of individuals not receiving Medicaid HCBS

For 1915(i) State plan home and community-based services, section 441.710(a)(2)(v) specifies that the following settings are presumed to have the qualities of an institution:

- Any setting that is located in a building that is also a publicly- or privately-operated facility that provides inpatient institutional treatment
- Any setting located in a building on the grounds of, or immediately adjacent to, a public institution
- Any other setting that has the effect of isolating individuals receiving Medicaid HCBS from the broader community of individuals not receiving Medicaid HCBS