

NJ Department of Human Services
Home and Community-Based Services Final Regulation's Setting Requirements
Frequently Asked Questions

1. What are the HCBS settings final regulations?

- In January 2014, the Centers for Medicare & Medicaid Services (CMS) issued a final rule as part of the Affordable Care Act to ensure that Medicaid's home and community-based services (HCBS) programs provide full access to the benefits of community living and offer services in the most integrated settings.

2. What is the federal intent of the HCBS final regulations?

- Its intent is to ensure that states, getting federal Medicaid funds, meet the needs of constituents who want to get their long term services and supports in their home or community, rather than in institutions.
- For individuals, these new rules seek to improve the quality of HCBS and increase the use of person-centered planning in these programs.
- For service providers, the rules set new standards that HCBS settings and services must meet to be eligible for reimbursement under Medicaid.

3. What defines an HCBS setting according to CMS?

- CMS moved away from defining HCBS settings by what they are not and by the number of persons served, and toward defining them by the nature and quality of a participant's experience.
- An HCBS setting is defined in the federal rules by the access and integration the location can provide for an individual to the community.

4. What New Jersey's Home and Community Based Services (HCBS) programs that are affected by the final regulation?

- New Jersey needs to ensure that its NJ 1115 Comprehensive Waiver Demonstration (NJCW) and the 1915 (c) Community Care Waiver (CCW) are in compliance with the HCBS setting requirements. It is these two NJ FamilyCare waiver programs that require consistency with the new federal rules. The changes form the basis of New Jersey's Statewide Transition Plan (STP).

5. Where are the federal regulatory citations with regard to the Statewide Transition Plan?

- The federal regulatory requirements for HCBS settings, which need to be reviewed in the Statewide Transition Plan are as follows: 42 Code of Federal Register (CFR) Section 441.301 (c) (4) (5) and 42 CFR Section 441.710 (a) (1) (2).

6. What is New Jersey’s timeframe for coming into compliance with the HCBS setting requirements?

- New Jersey, like all states, is required to submit a Statewide Transition Plan to CMS by March 17, 2015, but has until March 17, 2019 to be in full compliance with the federal requirements.

7. What specific NJ FamilyCare programs does the new rule affect in New Jersey?

- The new rule affects consumers receiving HCBS under the NJ 1115 Comprehensive Medicaid Waiver Demonstration (NJCW) on these initiatives:
 - Managed Long Term Services and Supports (MLTSS) Supports
 - Supports Program
 - Managed Behavioral Health Organization
 - Demonstration programs for children
 - Autism Spectrum Disorder (ASD) pilot
 - Intellectual/Developmental Disabilities and Co-Occurring Mental Illness Diagnoses (ID-DD-MI) pilot
 - Program for Children diagnosed with Serious Emotional Disturbance (SED) pilot
- It also will affect consumers receiving HCBS on the Community Care Waiver (CCW).
- Providers of HCBS waivers that are funded by NJ FamilyCare under the NJCW and the CCW must meet the new standards to be eligible for reimbursement under Medicaid.

8. How is New Jersey coming into compliance with the new federal rules?

- The NJ Department of Human Services (DHS) is writing a Statewide Transition Plan to bring its programs into compliance with the new rules. The DHS is evaluating its HCBS programs and services to see if they comply with the new rule. Included will be a review of the state’s regulations, standards and policies; and an assessment of residential NJ FamilyCare HCBS providers.

9. Where can I find out more information about New Jersey’s Statewide Transition Plan?

- The Department’s website has information posted at www.state.nj.us/humanservices/dmahs/info/ with the draft Statewide Transition Plan.

10. New Jersey welcomes your comments.

- Comments on the draft Statewide Transition Plan can be submitted in writing to mahs.hcbs@dhs.state.nj.us or to HCBS Rules in care of Deputy Commissioner Lowell Arye, NJ Department of Human Services, P.O. Box 700, Trenton, NJ 08625-0700.