



HCBS Settings Rule

Nonresidential Provider Overview



WISCONSIN DEPARTMENT
of HEALTH SERVICES

Background

- The Medicaid Home and Community-Based Services (HCBS) waiver program was authorized under Section 1915(c) of the Social Security Act.
- Home and community-based services waivers provide opportunities for Medicaid beneficiaries to receive services in their community rather than in institutions or other isolated settings.

Overview of Federal Regulation

- In 2014, the Centers for Medicare & Medicaid Services (CMS) released new federal requirements regarding the qualities of settings that are **eligible for reimbursement** for Medicaid home and community-based services (HCBS).
- The new federal requirements are referred to as the HCBS Settings Rule.

Overview of Federal Regulation

- The HCBS Settings Rule addresses several sections of Medicaid law under which states may use federal Medicaid funds to pay for home and community-based services.
- CMS requires all states that operate HCBS waivers to comply with the federal settings rule.

DHS Waiver Settings Within The Rule

Wisconsin Long-Term Support Programs

Family Care

IRIS (Include, Respect, I Self Direct)

Family Care Partnership

Children's Long-Term Support Waiver

Residential Waiver Settings

Community-based residential facilities (CBRFs)

Adult family homes (AFHs; 1-2 beds and 3-4 beds)

Residential care apartment complexes (RCACs)

Level 5 exceptional treatment foster homes (children's long-term support only)

Nonresidential Waiver Settings

Adult day care centers

Prevocational services

Children's day services settings

Group supported employment

Day habilitation services

HCBS Settings Rule – Intent

The intent of the HCBS Settings Rule is to maximize the opportunities for individuals receiving Medicaid-funded HCBS to receive those services in a manner that:

- Protects and enhances individual choice
- Promotes community integration
- Improves quality of services
- Provides additional protections

CMS is very clear in its definition and expectations of the person-centered planning process within the settings rule requirements.

CMS Definition of HCBS Qualities

Per CMS, any non-residential setting where individuals receive HCBS must have the following five qualities:

1. Is integrated in and supports full access of individuals to the greater community:
 - Provides opportunities for individuals to seek employment, work in competitive integrated settings, engage in community life, and control personal resources.
 - Ensures that individuals receive services in and access to the greater community, to the same degree of access as individuals not receiving HCBS.

CMS Definition of HCBS Qualities

2. Is selected by the individual from among setting options including non-disability specific settings:

Person-centered service plans document the options based on the individual's needs and preferences.

3. Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.

CMS Definition of HCBS Qualities

4. Facilitates individual choice regarding services and supports, and who provides them.
5. Optimizes individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.

Compliance Assessment

CMS is requiring all states that operate HCBS waivers to assess and determine if nonresidential provider settings meet the federal requirements.

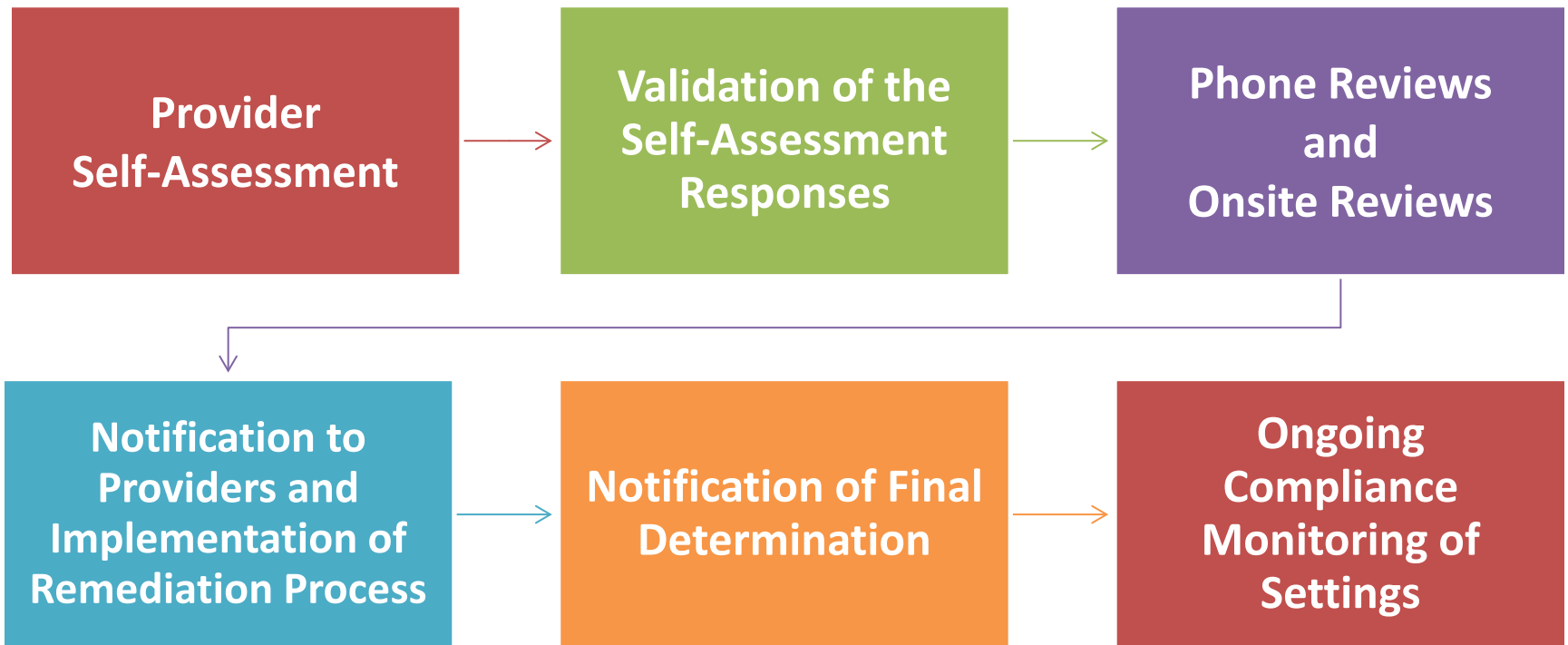
All nonresidential providers that intend to continue providing services for HCBS waiver participants must complete the assessment process for each physical setting.

Compliance Assessment

CMS intent – choice, community integration, quality of services, person-centered planning

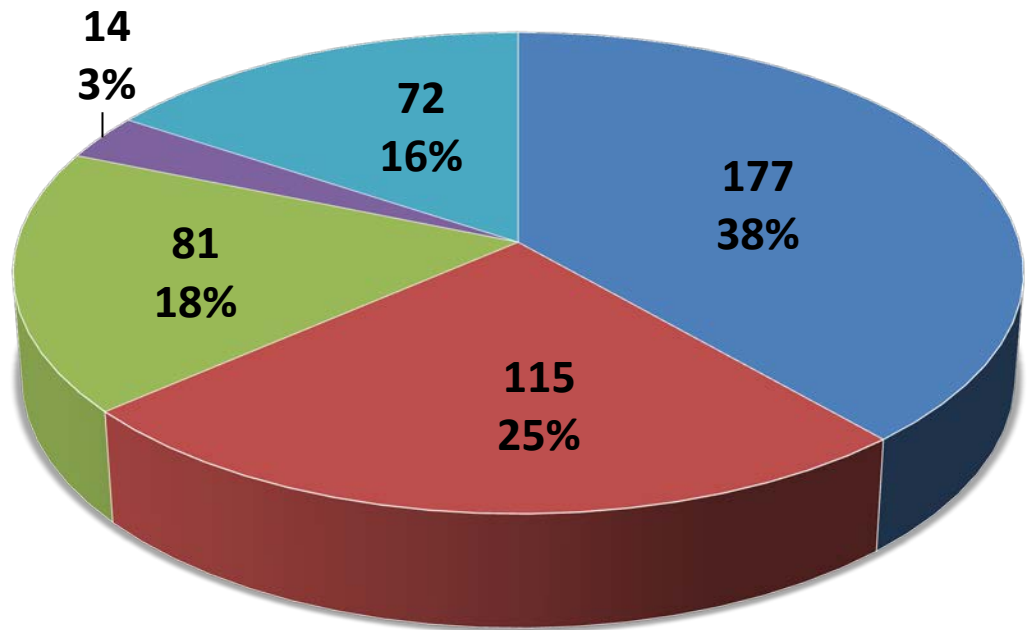
- Does the program have characteristics that isolate participants from the broader community?
- Do participants have the same level of access to their community as individuals not receiving Medicaid HCBS?
- Do participants have the opportunity to seek employment and work in competitive settings?
- Does the setting provide opportunities for participants to control their personal resources?

WI HCBS Provider Assessment Process



Nonresidential Self-Assessments

- Adult Day Centers
- Prevocational Services
- Adult Day Care
- Children's Day Services
- Group Supported Employment



Onsite Validation Visits

- Providers will receive written notification of their onsite validation site visit.
- Providers will be asked to:
 - Provide access to documentation during the site visit (examples: policies and procedures, training curricula, individual service plans).
 - Be available for interviews.
 - Inform participants that they may be asked to be interviewed.

Remediation

- Providers will receive written notice of HCBS criteria not met.
- Providers will have the option to do one of the following:
 - Correct the concern immediately, and provide evidence to the reviewer.
 - Submit a plan to remediate the concern, and provide a date by which the remediation activity will be completed.

Heightened Scrutiny

CMS regulations identify settings that are presumed to have institutional qualities and do not meet the requirements for Medicaid HCBS:

- Settings in a publicly or privately operated facility that provides inpatient institutional treatment.
- Settings in a building on the grounds of, or adjacent to, a public institution.
- Settings with the effect of isolating individuals from the broader community of individuals not receiving HCBS waiver services.

For More Information

Sign up for Email Updates

<https://www.dhs.wisconsin.gov/aboutdhs/alerts.htm>

DHS HCBS Website

www.dhs.wisconsin.gov/hcbs/index.htm

CMS HCBS Website

www.medicaid.gov/medicaid/hcbs/index.html

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