



Home and Community-Based Services (HCBS) Settings Final Rule Ongoing Monitoring Guide




This guide is intended to help Case Managers, HCBS Provider Agencies, contractors, Direct Support Professionals, and other paid or unpaid caregivers make observations and ask questions relevant to a setting’s [HCBS Settings Final Rule](#) compliance. The full rule is codified at 10 CCR 2505-10 8.7001.B.

Case Managers, please refer to the guide to help identify issues when conducting quarterly Monitoring Contacts with Members at any settings where they live or receive HCBS. Covered settings include:






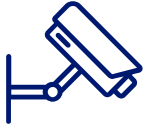
- Residential: Alternative Care Facilities, Supported Living Program and Transitional Living Program facilities, Mental Health Transitional Living Homes, Group Homes, Host Homes, and other Individual Residential Services and Supports settings; Foster Care Homes, Kinship Homes, Specialized Group Facilities, Residential Child Care Facilities, and Qualified Residential Treatment Programs where people receive Medicaid-funded HCBS; and personal/family homes where people receive intermittent or 24-hour supports, including self-directed supports.
- Nonresidential: facilities or other locations in the community where people receive Adult Day, Day Treatment, Specialized Habilitation, and Prevocational Services; facilities or other locations in the community where people receive group or individual Supported Community Connections, Community Connector, and Supported Employment services, as well as self-directed supports; locations (including providers’ homes) where people receive Youth Day Services.





You do not need to cover every single item on this guide during each contact. Rather, conduct contacts in a person-centered manner, focusing on issues that are priorities for the individual. If they are restricted from fully exercising a right, be sure all criteria are documented, as detailed below.

The following rights apply at all HCBS settings







Expectation	 Red flags—the individual says or you observe that . . .	 Positive signs—the individual says or you observe that . . .
Community integration 	<ul style="list-style-type: none"> • They are un- or under-employed and not working toward job goals • They are lonely and/or rarely interact with people other than paid staff and people with disabilities • They do not know about local events like fairs, festivals, concerts, etc. • They do not know how to take public transit/order a ride on their own • They are not allowed or able to leave on their own • They rarely leave the setting • When they go out, they almost always do so as part of a large group consisting 	<ul style="list-style-type: none"> • They have or are working toward competitive integrated employment (if desired) • They are active in an integrated team, club, music group, congregation, adult education class (or public school, for youth), gym, rec center, etc. • They regularly get together with people not receiving services • They know about and attend local events of interest • They know how to take public transit/order a ride on their own • They leave and come back when they want, or any Restrictive or Controlled







Expectation	 Red flags—the individual says or you observe that . . .	 Positive signs—the individual says or you observe that . . .
	<p>of other people with disabilities and paid staff</p>	<p>Egress Measures (including Medicaid-funded home modifications) are documented as Rights Mods consistent with 8.7001.A.16, -B.2.a.iii, and -B.4.f.</p> <ul style="list-style-type: none"> • They leave as often as they want • They go out individually or in small groups, as often as desired
<p>Private communication with others</p> 	<ul style="list-style-type: none"> • They can't have their own phone/tablet/computer • They can't use such devices unsupervised • They do not know how to text or use the internet • Somebody else opens their mail 	<ul style="list-style-type: none"> • They have their own phone/tablet/computer • They can use such devices whenever they want without supervision • They know how to text and use the internet • They open their own mail
<p>Control over personal resources</p> 	<ul style="list-style-type: none"> • They need to ask permission to spend their own money • They can only access their money at certain times, such as weekdays during business hours 	<ul style="list-style-type: none"> • They can spend their money when and how they want • If they have a rep payee or similar, their Person-Centered Support Plan documents why support is needed, how funds will be handled, and any training to build money management skills, consistent with 8.7001.B.2.a.i.6.
<p>Individual, informed choice</p> 	<ul style="list-style-type: none"> • They did not have the chance to review setting options, including non-disability-specific settings and an option for a private unit in a residential setting • They did not choose this setting • They feel they need to earn their way to a different setting • They do not want to be here • They dislike their support staff or view them as disrespectful or unkind • Setting does not have a copy of their Person-Centered Support Plan (including Rights Modifications, if applicable) or is not implementing it • They did not lead the development of any provider-specific service/care plan 	<ul style="list-style-type: none"> • They looked at other options available to them, including non-disability-specific settings and an option for a private unit in a residential setting • After looking at all the choices, they chose this setting • They understand they can go somewhere else if they want • They like their support staff and feel they are treated kindly and respectfully • Setting has a copy of their Person-Centered Support Plan (including Rights Modifications, if applicable) and is implementing it • They led the development of any provider-specific service/care plan
<p>Privacy, dignity, and respect</p> 	<ul style="list-style-type: none"> • In typically private places like bathrooms, changing areas, bedrooms, or residential common areas, they are subject to cameras, audio monitors, or devices that chime/alert others when someone moves or goes through a door • They are subject to intensive supervision (one-on-one (1:1), line-of-sight, or 24-hour supervision) 	<ul style="list-style-type: none"> • They are not subject to devices as described at left, or if they are, such measures (including Medicaid-funded home modifications) are documented consistent with 8.7001.B.2.a.iii. • They have been informed of cameras on staff-only desks, exterior sides of entrances/exits, and shop floors

Expectation	 Red flags—the individual says or you observe that . . .	 Positive signs—the individual says or you observe that . . .
	<ul style="list-style-type: none"> • Their name is posted on their bedroom/apartment door • Their medications, dietary needs, or other personal information is posted • Adults are not allowed to enjoy typical adult freedoms like drinking alcohol at home or smoking/vaping • Staff do not honor person-centeredness and dignity of risk 	<ul style="list-style-type: none"> • They are not subject to intensive supervision, or if they are, such supervision is documented as a Rights Modification if required by 8.7001.A.6 • Their name and other personal information is not posted • They can drink alcohol and smoke/vape as others do (where legal and of age) • Staff honor person-centeredness and dignity of risk
<p>Freedom from coercion and restraint</p> 	<ul style="list-style-type: none"> • They get sent to time-out • Staff grab or hold them when they start wandering or acting out • Staff use prone restraints • They are medicated to be easier for staff to control 	<ul style="list-style-type: none"> • They can choose when to enter and leave a cooling-off area • Any planned use of any type of restraint is documented as a Rights Modification under 8.7001.A.15 and 8.7001.B.4.e, and prone restraints are not used
<p>Initiative, autonomy, and freedom over schedule</p> 	<ul style="list-style-type: none"> • They have a regimented schedule (e.g., fixed times they have to get up, eat, do an activity, or be in bed) • Their daily routine has very little variation, despite their interests and preferences • Their activities are dictated by provider preferences or convenience <ul style="list-style-type: none"> ○ They must go to day program instead of a job or other desired activities • They need to do what they are told • They have to ask permission to do things typical people do freely (including medication self-administration) • They are not offered choices among age-appropriate activities 	<ul style="list-style-type: none"> • They independently choose how to spend their day • They have variation when desired in what they do, when, and with whom • Their activities are not dictated by provider preferences or convenience <ul style="list-style-type: none"> ○ This includes being able to pursue integrated employment • They feel that they are their own person and can be themselves • They do not have to get permission to do things typical people do freely (including medication self-administration) • They can choose from among various age-appropriate activities




The following rights apply at provider-owned or -controlled residential and nonresidential settings, as well as personal/family homes if any resident receives 24-hour supports. (Other personal/family homes are excluded.) At other places in the community where people receive services, these rights apply to the same extent for HCBS participants as they do for others.

Expectation	 Red flags—the individual says or you observe that . . .	 Positive signs—the individual says or you observe that . . .
Doors, locks, and keys 	<ul style="list-style-type: none"> • They cannot lock the bathroom or changing area door • When they close the door to the bathroom, changing area, or (at residential settings) bedroom and/or unit, staff come in without knocking and waiting for permission • They do not have a lockable place to store their belongings • At residential settings, they lack: <ul style="list-style-type: none"> ○ A key/code to their home ○ A unique key/code to their unit/bedroom ○ A bedroom door 	<ul style="list-style-type: none"> • They can lock the bathroom and changing area door • When they close the door to the bathroom, changing area, or (at residential settings) bedroom and/or unit, staff knock and wait for permission before entering • They have a lockable place to store their belongings • At residential settings, they have: <ul style="list-style-type: none"> ○ A key/code to their home ○ A unique key/code to their unit/bedroom ○ A bedroom door
Visitors at any time 	<ul style="list-style-type: none"> • There are rules barring or limiting visitors (e.g., cap on number of visits, need to get staff approval) • At residential settings, there are visiting hours or rules against overnight guests 	<ul style="list-style-type: none"> • They have visitors of their choosing • This includes having evening/overnight guests at residential settings
Access to food at any time 	<ul style="list-style-type: none"> • They can eat only at specific times • They can eat only in accordance with specific diets • There are locks on kitchen doors, refrigerators, pantries, or cupboards • They cannot store food in their room/unit • They have an assigned seat at meals 	<ul style="list-style-type: none"> • They have access to food at all times and choose when to eat, including snacks between meals • They choose what to eat • Food is not locked up • They can store food in their room/unit • They sit where and with whom they want at meals
Physical accessibility 	<ul style="list-style-type: none"> • The setting is not physically accessible • They cannot access all common areas in the setting 	<ul style="list-style-type: none"> • The setting is physically accessible • They have unrestricted access to common areas, including a kitchen, dining area, and shared areas

The following rights apply at provider-owned or -controlled residential settings, as well as personal/family homes if any resident receives 24-hour supports. (Other personal/family homes and all nonresidential settings are excluded.)

Expectation	 Red flags—the individual says or you observe that . . .	 Positive signs—the individual says or you observe that . . .
Choice of roommate/housemate 	<ul style="list-style-type: none"> • They did not meet with their potential roommate(s)/housemate(s) in advance, and/or did not choose to live with them 	<ul style="list-style-type: none"> • They have no room-/ housemate(s) • They met with their potential room-/ housemate(s) in advance and chose to live with them • If they share a bedroom, they have a curtain/divider for privacy
Decorating 	<ul style="list-style-type: none"> • Their unit/bedroom has little to no personal decoration/furnishing 	<ul style="list-style-type: none"> • Their unit/bedroom reflects personal decoration/furnishing

The following right applies only at provider-owned or -controlled residential settings. (All personal/family homes and all nonresidential settings are excluded.)

Expectation	 Red flags—the individual says or you observe that . . .	 Positive signs—the individual says or you observe that . . .
Lease/residential agreement that protects against eviction 	<ul style="list-style-type: none"> • They do not have a lease/residential agreement that protects them against eviction • They feel that they could be kicked out on a whim, or they are worried about becoming homeless 	<ul style="list-style-type: none"> • They have a lease/residential agreement that protects them against eviction • They know they can be asked to leave only for a substantial reason, they will get notice and a chance to seek review before being evicted, and they can't be evicted if they have nowhere else to go

Red flags do not necessarily mean that the setting is violating the HCBS Settings Final Rule.

- Restricting someone from fully exercising a right may be appropriate if the criteria for a Rights Modification are met. These criteria include documenting individualized assessed need, informed consent, and more. See 8.7001.B.4. Also, depending on the waiver, Human Rights Committee (HRC) review may be required. Rights Modifications may not be imposed on a broad basis or for staff convenience, without meeting the criteria of 8.7001.B.4 and (if applicable) HRC review.
- Restricting a minor from fully exercising a right, in a way that is typical for children/youth of that age, is not a Rights Modification. If the restriction goes above and beyond what a typically developing peer would require, it must be documented as a Rights Modification.

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If it seems that the setting is not compliant with the HCBS Settings Final Rule, please escalate the concern to your supervisor, who can discuss it with the provider and your Case Management Agency (CMA) leadership. Concerns not resolved through this process can be escalated to the Department by emailing HCPF_HCBS_Questions@state.co.us. If appropriate, you may also consider [filing a complaint](#) with the Colorado Department of Public Health & Environment or contacting other authorities.