

Eastern Los Angeles Regional Center

Home and Community Based Services (HCBS)

HCBS Final Rule: Federal Requirement # 2 Choice of Setting



4 Key Principles Essential for Compliance with the HCBS Final Rule:

Choices: Is the right, power, or opportunity to choose; option.

Rights: A person's right is that which is morally, legally, or ethically proper.

Opportunities: Opportunity is a good position, chance, or prospect, as for advancement or success; "a set of circumstances that makes it possible to do something".

Integration: Integration is to give or cause to give equal opportunity and consideration to.

For additional information on HCBS visit the following:

- [ELARC](#)
- [DDS](#)
- [CMS](#)

Contact ELARC's HCBS Evaluator for support or questions regarding HCBS:

HCBS Evaluator: Lizette Villa
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Email: lvilla@elarc.org

HCBS the Final Rule

The HCBS Final Rule ensures that people with disabilities have full access to, and enjoy the benefits of, community living through long-term services and supports in the most integrated settings of their choosing. There are 10 federal requirements that make up the Final Rule. Federal Requirements 1-5 apply to providers of ALL services, including residential and non-residential settings. Federal Requirements 6-10 are additional requirements that apply ONLY to provider-owned or controlled residential settings. Service Providers are to be in compliance with the HCBS Final Rule by March 17, 2023.

What is Federal Requirement #2?

The setting is selected by the individual from among setting options, including non-disability-specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual needs, preferences, and, for residential settings, resources available for room and board.

What does this mean for Service Providers?

Service providers who identified to be in compliance with federal requirement #2 via the DDS Self-Assessment and/or the DDS Site-Assessment will need to provide supporting documents to demonstrate compliance with the requirement during the remediation reporting period projected to commence in 2022. Service providers who are not in compliance with federal requirement #2 will work closely with ELARC to come into compliance with the requirement. Service providers should continue to self-assess for compliance with federal requirement #2 even if they have identified as being in compliance.

What does this mean for Service Coordinators?

Service Coordinators are to continue to ensure that individuals served select settings amongst all setting options available including non-regional center funded services. Setting options are to be reviewed during routinely scheduled meetings or as requested by the individuals served and must be documented in the IPP. The settings should reflect a person centered approach that meets the individual's interests, wants and needs. Service Coordinators will also support service providers assess for compliance with federal requirement #2 during regularly scheduled meetings and reviews.

Please discuss this agenda topic with your team and identify any questions, concerns or comments about the topic. Feedback and questions can be sent to [Lizette Villa](#). Thank you.

Assessing for Compliance with Federal Requirement 2

The following are a series of questions intended to help identify compliance or non-compliance with federal requirement #2. Service Providers and Service Coordinators are encouraged to routinely assess and discuss federal requirement #2 with each other and with individuals served during regularly scheduled meetings such as IPPs, quarterlies, ISPs and/or as needed. Service Providers and Service Coordinators are not limited to the guidance provided below and some questions may not apply to all services. Service Providers and Service Coordinators are to consider person centered needs when assessing for compliance with federal requirements.

Guidance for Federal Requirement #2

- Does the provider have a current regional center Individual Program Plan (IPP) on file for all individuals?
- Does each individual's IPP document the different setting options that were considered prior to selecting this setting?
- Did the individual choose the setting? If residential - home or apartment?
- Are there other settings the individual wanted to attend? If residential - home or apartment you wanted to live?
- Is the individual aware of other settings available- both ELARC vendored and non-ELARC vendored settings?
- Was the individual able to see/visit other places before selected this setting?
- Does the setting meet the individual's interest, wants and needs?

Additional Support

Service Providers and Service Coordinators are encouraged to contact the assigned [Community Services Specialist](#) or the HCBS Evaluator if additional support is needed assessing for compliance with federal requirement #2 and or if a service provider is assessed to be out of compliance with the requirement.