

Eastern Los Angeles Regional Center

Home and Community Based Services (HCBS)

HCBS Final Rule: Federal Requirement # 4 Independence



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 #4?

Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.

What does this mean for Service Providers?

Service providers who identified to be in compliance with federal requirement #4 via the DDS Self-Assessment will need to provide supporting documents to validate their self-assessment during the validation/remediation reporting period projected to commence in 2022. Service providers who are not in compliance with federal requirement #4 will work closely with ELARC to come into compliance with the requirement. Service providers should continue to self-assess for compliance with federal requirement #4 even if they have identified as being in compliance.

What does this mean for Service Coordinators?

Service Coordinators will ensure that individuals served have input and choices in making daily and long term choices. They will also make certain that settings support individuals' autonomy to make personal decisions. Service Coordinators will support service providers assess for compliance with federal requirement #4 during regularly scheduled meetings and reviews.

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
Phone: 626-299-4868
Email: lvilla@elarc.org

Assessing for Compliance with Federal Requirement #4

The following are a series of questions intended to help identify compliance or non-compliance with federal requirement #4. Service Providers and Service Coordinators are encouraged to routinely assess and discuss federal requirement #4 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 #4

1. Do individuals have input and choice among daily activities that are based on the individuals' needs and preferences?
 - Daily Activities
 - Group activities
 - Daily Schedule
 - Who they interact with in the home and or program
 - Do they interact with non- disabled peers in the community?
2. Are individuals able to eat meals of their choosing?
3. Can individuals dine alone in their bedroom or other private area?
 - If individuals dine in a dining area, is there assigned seating?
4. Can individuals choose to spend time, including dining, alone or in a private area?
5. Does the provider support individuals' autonomy to make personal decisions such as practicing religion and voting?
 - Can individuals attend religious services at a location, time and faith of their choosing?
 - Are individuals supported to vote?

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 #4 and or if a service provider is assessed to be out of compliance with the requirement.