

Eastern Los Angeles Regional Center

Home and Community Based Services (HCBS)

HCBS Final Rule: Federal Requirement # 5 Choice of Services and Support



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 #5?

Facilitates individual choice regarding services and supports, and who provides them.

What does this mean for Service Providers?

Service providers who identified to be in compliance with federal requirement #5 via the DDS Self-Assessment will need to provide supporting documents to validate their self-assessment during the validation/remediation reporting period. Service providers who are not in compliance with federal requirement #5 will work closely with ELARC to come into compliance with the requirement. Service providers should continue to self-assess for compliance with federal requirement #5 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 the services and supports they receive. They will also make certain that settings understand individual needs, interests and wants and that the services and supports they receive address those needs interest and wants. Service Coordinators will support service providers assess for compliance with federal requirement #5 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
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Assessing for Compliance with Federal Requirement #5

The following are a series of questions intended to help identify compliance or non-compliance with federal requirement #5. Service Providers and Service Coordinators are encouraged to routinely assess and discuss federal requirement #5 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 #5

1. The provider support individuals in choosing which staff provide their care (for example gender or language spoken).
2. The provider has a complaint/grievance policy for individuals.
3. The provider informs individuals how to file a Grievance in communication methods outlined in their IPPs.
4. Individuals have opportunities to voice their concerns in the manner and timing of their choosing, consistent with their communication abilities and preferences.
5. Individuals have opportunities to modify their services or schedules.
6. Individuals have a clear understanding of how they can modify their services or schedules.
7. Individuals are present and involved in meeting where their service plans are discussed and developed.
8. Individuals are clearly aware that they get to decide who is invited to their service planning meetings.
9. Individuals feel they are listened to during their individual their service planning meetings.
10. If individuals are of retirement age, are they offered the choice to retire from a day or work program?

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