



HCBS Residential Provider Self-Assessment

It was the consensus of the LeadingAge Wisconsin Workgroup on the HCBS Residential Provider Self-Assessment Survey that most of the questions in the survey simply should be answered by checking the appropriate box(es), with the COMMENT section used only to clarify a response, not to mount a defense of the non-institutional aspects of your HCBS setting. The DHS has stated consistently that the provider self-assessment survey “only is intended as a starting point in the process of determining compliance with the CMS home- and community-based services (HCBS) settings requirements and that providers will not be determined to be in or out of compliance based solely on their survey responses.” According to the DHS, the COMMENTS section of the survey “is intended for brief explanatory comments and not as a way for a provider to make a case for compliance with the CMS requirements.”

In essence, providers are considered non-institutional until proven institutional. Thus, it was determined that the survey responses should be as brief as possible in hopes that further questioning might be avoided. However, the real test of compliance will begin with the next step in the process, the Provider Self-Assessment Validation, which according to the DHS Transition Plan is to begin upon the May 25, 2015 conclusion of the provider self-assessment survey and conclude in June 2016. Under the self-assessment validation process, the DHS will select a sample of settings (the size of which has yet to be determined, although geographic, size and licensure considerations will be taken into account) that will have on-site visits from their Family Care managed care organization(s) (MCO) or Medicaid waiver agency in non-Family Care counties to determine if their survey responses can be supported by evidence. According to the Department, evidence that will be considered includes policies and procedures, physical characteristics of the setting, individual service plans, conversations with Family Care/waiver participants who live in the setting, and other relevant information provided by the setting.

The real compliance issues will begin to come into focus during this validation process. The self-assessment survey responses kick off that process but once again only are a starting point. Having stated that, members should only provide survey responses that can be proven. Don't provide a “non-institutional” response which can't be documented or otherwise backed up. Completing this survey should take little time; providing the evidence to show compliance with the CMS HCBS settings requirements, the next step in this process, could prove to be more difficult and time-consuming. But there will be time to collect that evidence.

For more information on the CMS HCBS settings requirements, go to: www.medicaid.gov/hcbs. Keep in mind that Family Care, COP-W and CIP II all are Section 1915(c) Medicaid waivers. ***The remainder of this document will identify areas where the workgroup felt clarifications should be made under the COMMENTS section:***

Section B – Physical Location

The HCBS Settings Rule identifies settings that are presumed to have institutional qualities and, therefore, do not meet the rule’s requirements. This residential provider self-assessment will be used to confirm that settings are not institutional in nature and do not have the effect of isolating people receiving HCBS from the broader community. Citations : 42 CFR § 441.301(c)(5)(v) and 42 CFR § 441.301(c)(4)(i)

B1. Is the facility located on the grounds of, or immediately adjacent to, a building that is a publicly or privately operated facility which provides inpatient institutional care¹ (Skilled Nursing Facility (SNF), Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID), Institute for Mental Disease (IMD), hospital)?

Yes No

Comments:

If you respond Yes and are a privately operated facility, clarify that you are a privately operated facility in the COMMENTS section. This question clearly targets publicly operated (governmental) facilities and it could benefit privately operated facilities to point out that distinction.

For Publicly Operated Facilities responding Yes, you’re an obvious target. You either can check the Yes box, go on to the next question and take your cause up during the Validation process or note under the COMMENTS section that your campus allows couples to continue to live together as they age in place on a continuum of care campus (this argument is more compelling if you have independent apartments as part of your continuum).

Section C – Community Integration

Regulatory requirements for the HCBS settings rule include qualities based on the needs of the individual as indicated in their person-centered service plan. This survey will be used to confirm *that the setting is integrated in, and supports full access of individuals receiving Medicaid HCBS, to the greater community to the same degree of access as individuals not receiving Medicaid HCBS*. Citations: 42 CFR § 441.301(c)(4)(i)

C1. Does the facility offer options for residents to receive services in the community rather than at the facility?

Yes No

Comments: Unless you don't offer such options, check yes.

C2. Residents make independent choices – that are not contingent upon other residents going to the same activities - in the following community activities (check all that apply):

shop in the community

attend religious services

schedule or attend appointments

visit with family and friends in the community

Comments: Comment only if none of the above are checked.

C3. Are residents required to sign over their employment paychecks to the facility?

Yes No

Comments: If it's accurate, you might point out in the COMMENTS section that no one in your frail elderly population is employed.

C4. Is there a central location at the facility where resident's personal finances are held?

Yes No

Comments: If no, explain that your residents/tenants manage their own finances. If you operate a CBRF and respond yes, indicate you comply with the Resident Funds requirements under DHS 83.34, Wis. Adm. Code.

C5. Does the facility impose restrictions on when residents can access their personal funds?

Yes No

Comments: If you operate a CBRF, respond Yes, and it's applicable, state you comply with the Resident Funds requirements under DHS 83.34.

C6. Does the facility impose restrictions on the amounts of personal funds residents can access?

Yes No

Comments: See C4 and C5.

C8. Is public transportation available near the facility?

Yes No

Comments: The transportation services that are available and accessible to our residents are the same as those available and accessible to residents in the community.

C10. Are resources other than public transportation available for residents to access the broader community?

Yes No

Comments: If yes, facility may want to describe other resources available, i.e., facility bus/van, etc.

C11. Are residents dependent on facility staff for transportation options?

Yes No

Comments: If no; comments are not needed

If yes, clarify that you arrange for transportation only when all other options, including funding, have been exhausted.

Section D – Eviction Protections

The HCBS settings rule establishes that residents in provider-owned, or controlled, residential settings are entitled to the same eviction protections as a tenant has in a landlord-owned setting. Citations: 42 CFR § 441.301(c)(4)(vi)

D1. Does the provider-owned or controlled residential setting have in place for each resident a written, legally enforceable lease?

Yes No

Comments: Assuming a no response, clarify by stating the Wisconsin landlord tenant law is not applicable in an HCBS setting. Resident/tenant admissions and/or service agreements under DHS 83, DHS 88 and DHS 89 afford equal protections.

a. If no, does the provider-owned or controlled residential setting have in place for each resident a written agreement in accordance with licensing or certification requirements?²

Yes No

Comments: See D1. (or leave the COMMENTS section blank under D1 and check yes under D1a).

Section E – Person’s Experience

The provider setting must optimize, but should not regiment, personal initiative, autonomy, and independence in making life choices, including but not limited to daily activities, physical environment and with whom to interact. The setting must ensure each person’s right to privacy, dignity and respect and freedom from coercion and restraint. Citations: 42 CFR § 441.301(c)(4)(iii), 42 CFR § 441.301(c)(4)(iv), and 42 CFR § 441.301(c)(4)(vi)

E1. Does each living unit have lockable entrance doors?

Yes No

Comments: If no, explain why you don't. Person centered care plans, service plans etc.

Individuals served in the waiver programs have a member care plan (MCP) developed by the specific program; clarify that your residents' individualized service plans (ISP) are built upon and consistent with the MCP.

a. If yes, does only the resident and appropriate facility staff have keys to doors?

Yes No

Comments: If yes, clarify that only necessary and specified staff have keys and access to residents' rooms.

E5. There are restrictions on the use of (select all that apply):

private cell phones

computers

other personal communication devices

Comments: If you check one of these boxes, you may want to refer to the ISP and/or privacy issues.

E7. Do residents sharing units have a choice of roommates?

Yes No

Comments: Resident preferences are respected.

E16. Are there gates, locked doors, or other barriers preventing a resident's entrance to, or exit from, certain areas of the facility?

Yes No

Comments: If yes, provide an explanation of areas, etc. where there are locked doors or other barriers, i.e. consistent with the resident's/residents' person-centered care plan(s.).

E18. Are restrictive measures, including isolation, chemical restraints and physical restrictions used? Examples may include but are not limited to: bed rails, seat belts, restrictive garments or other devices.

Yes No

Comments: If yes, explain that the usage is consistent with the resident's/residents' ISP/person-centered care plan.

a. If yes, are approved restrictive measures documented in the resident's care plan?

Yes No

Comments: See E18 (or leave the COMMENTS section blank for E18 and check yes under E18a).

Section F – Policy Enforcement

Additional Comments

Additional space to elaborate on answers, to present insights, facts and circumstances relevant to assessing compliance with setting requirements, and to provide additional remedial planning material.

This section appears to conflict with the DHS directive that the narrative fields are intended for brief explanatory comments and not to make a case for compliance.