

Home and Community Based Services (HCBS) Settings Final Rule Assessment Preparation Guide

HCBS Settings Final Rule Background

On January 16, 2014, the Centers for Medicare and Medicaid Services (CMS) issued the Home and Community Based Services (HCBS) Settings Final Rule regulations. These new regulations seek to give more protections to HCBS waiver participants as they receive services in their home, home like setting or community setting. The HCBS Settings Final Rule requires states to review and evaluate settings for proper service delivery compliance. Individuals receiving HCBS should not be treated as if they are receiving services in an institution. Settings are defined as the locations where services are provided to individuals in Kansas.

The federal regulation for the HCBS Settings Final Rule is 42 CFR 441.301(c)(4)-(5). More information can be found on the CMS website at www.medicaid.gov/hcbs.

Provider Self-Assessment Overview

All HCBS settings that are Provider owned, controlled, or managed in Kansas must complete an assessment to show the essential characteristics of rights, choice, privacy, autonomy, integration, and inclusion is practiced when rendering services to waiver participants. Setting assessments are completed using the HCBS Compliance Portal. A Provider must request and be approved for an account by a HCBS Settings Final Rule Administrator with KDADS. Once access to the HCBS Compliance Portal is granted, all setting assessments, remediation and ongoing monitoring will occur between the Provider and KDADS through this virtual platform. The submission of pictures, policies and procedures from the Provider are required to meet HCBS Settings Final Rule compliance in Kansas. A site visit might also be required depending on the setting type and how services are rendered by agency staff.

Beginning the Road to HCBS Settings Compliance in Kansas

Provider HCBS Settings Final Rule Assessment Checklist:

- Evaluate the HCBS billing code list (on page 3) to determine if one or more of the services of the agency is or will be used by Provider. If so, an account must be created through the HCBS Compliance Portal to complete required HCBS Settings Final Rule assessment(s).
- Follow this link to request an account. [KDADS HCBS Final Rule - Sign-In \(ks.gov\)](#).
- A KMMS number is not needed to create an account. However, a NPI number is needed. If there are questions, please email KDADS.FINALRULE@ks.gov.
- Only the main contact person should request an account from the Provider. After the HCBS Settings Final Rule account is created, the main contact person will be able to add additional staff to access the account and assessment (s).
- Once the account request is approved, the requester will receive an email with a password reset and instructions on how to proceed.
- Follow the instructions and link found in the received email to enter the assessment site.
- Be sure to review the video, tip sheets and FAQ located under the resources tab at top of page. They will help the account holder navigate the HCBS Compliance Portal.
- Once entering the assessment site, the system should populate a presumed compliant assessment depending on the service codes selected. If a presumed compliant assessment does not populate, the service code(s) selected require a full HCBS Settings Final Rule assessment. If there are questions, please email KDADS.FINALRULE@ks.gov.
- To complete a full HCBS Settings Final Rule assessment, click on the setting tab at the top of page.
- Add setting information where HCBS is rendered. Click save to populate assessment(s).
- Repeat add setting information for each location where HCBS is or will be rendered. A failure to add each location might result in the recoupment of HCBS funds.
- Setting information must be added and saved before a HCBS Settings Final Rule assessment (s) will populate for it.
- After entering the setting(s), click on dashboard page, scroll down and click on the drop-down menu to see assessment list, click on start assessment.
- Click on start assessment and complete workflow. If more than one assessment, it is highly advised to complete and submit the first assessment to meet compliance before starting other assessments. This will allow the Provider to learn what documents are needed to meet HCBS Settings Final Rule compliance before submitting additional assessments to save time and remediation efforts.
- Google photos of the location and the Provider's policies/procedures are needed to answer each question on the assessment.

- Photos are only needed for questions 1 and 2.
- Questions 3-40 need agency policies and procedures that are relevant to the question. If a policy/procedure does not address the question, it is okay. A Provider can create a policy/procedure to answer the question before submission of the assessment or after.
- Please review the evidence suggestions on each question for what language is needed in each policy/procedure to meet HCBS Settings Final Rule compliance at the desk review level.
- There are 30 - days from the start of the assessment or contact from KDADS for the setting to become compliant at the desk review level. If the Provider regularly engages with HCBS Settings Final Rule compliance staff to complete needed activities, the deadline can be extended.

HCBS Codes Assessed for HCBS Settings Compliance

If one or more of the following HCBS billing codes are utilized by a Provider, it must create an account through the HCBS Compliance Portal to determine which Final Rule assessment must be completed. If there are questions, please email KDADS.FINALRULE@ks.gov.

Service Codes to Be Assessed

S5101 Adult Day Care, half day
 S5102 Adult Day Care, full day
 T2016 Adult and Children’s Residential
 T2021 Day Supports and Prevocational Services
 S5125 Personal Services/Agency Directed

Presumed Compliant Service Codes Assessed

S5130 PCS – Self Directed
 S5160 Personal Emergency Response System
 S5161 Personal Emergency Response System/Medical Alert
 T2025 Enhanced Care Services/Sleep Cycle Support
 S5125 Personal Services/Agency Directed (some settings)

HCBS Settings Final Rule Compliance Process and Workflow

