

# Strategies for Providing Services in Alignment with the HCBS Final Rule

California Department of Developmental Services

*October 2020*

# Training Expectations

- This training is being recorded and will be posted to the DDS website.
- Please use the **Q&A** function in WebEx for questions related to this training content; because of the volume of training participants, we may not be able to all answer questions received during the webinar.
  - Questions unrelated to this training content can be sent to: [hcbsregs@dds.ca.gov](mailto:hcbsregs@dds.ca.gov).
  - We will address various questions we received during registration throughout this training.
- You can access live closed captioning through the multi-media viewer.
- We will use interactive polls throughout the training.



# Introductions



**Amanda Alvey**  
Senior Consultant



**Elsa Bock**  
Business Analyst



**Sarah Salisbury**  
Associate Manager



**Jaymi Cohen**  
Consultant



**Cathy Anderson**  
Senior Advisor

# Objectives of this Training

**Training participants will come away from this training with an understanding of:**

1. The timeline for aligning practices with the HCBS Settings Final Rule
2. Person-centered practices as the foundation of the HCBS Settings Final Rule
3. Shared strategies to align practices with the HCBS Settings Final Rule
4. Frequently asked questions and answers
5. Next steps



# Agenda

1. Brief overview of the HCBS Settings Final Rule
2. Person-Centered Practices
3. Strategies to Align Practices
4. Next Steps
5. Resources
6. Exit Survey



# **Brief Overview of the HCBS Settings Final Rule**

# The purpose of the HCBS Settings Final Rule is to:

“Ensure that individuals receiving services through HCBS programs have **full access to the benefits of community living**”



“Further **expand the opportunities for meaningful community integration** in support of the goals of the ADA and the Supreme Court decision in *Olmstead*”



Start the presentation to see live content. For screen share software, share the entire screen. Get help at [pollev.com/app](https://pollev.com/app)







# Why do you think it's important to align services with the HCBS Final Rule requirements?

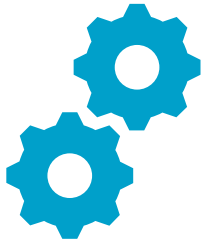
Start the presentation to see live content. For screen share software, share the entire screen. Get help at [pollev.com/app](https://pollev.com/app)



***What are the next steps for California to come into alignment with the Final Rule?***

# California's Statewide Transition Plan

## Process for Aligning Services with the HCBS Settings Final Rule



1. Education, Outreach and Training
2. Systemic Assessment
  - Statutes
  - Regulations
  - Policies
- 3. Assessment Process – including consumer input throughout**
  - **Self assessments**
  - **Onsite assessments**
4. Remediation
5. Reporting

# Process to Align Practices with the Final Rule

**Self-Assessment**  
January 2020–August 2020

**Remediation**  
January 2020–November 2021

**Site Assessment reviews**  
July 2020-June 2021

**Ongoing Monitoring**  
Beginning March 2022

**Consumer input and involvement**



# HCBS Final Rule Federal Requirements

- Federal Requirement #1
- Federal Requirement #2
- Federal Requirement #3
- Federal Requirement #4
- Federal Requirement #5
- Federal Requirement #6
- Federal Requirement #7
- Federal Requirement #8
- Federal Requirement #9
- Federal Requirement #10

Federal Requirements 6-9 are only applicable to residential services



- Access to the Community**
- Choice of Setting**
- Right to be Treated Well**
- Independence**
- Choice of Services and Supports**
- Residential Agreement**
- Privacy**
- Schedule and Access to Food**
- Right to Visitors**
- Accessibility**



**Reflect on your own current practices...**



# Throughout the assessment process, have you identified any challenges or barriers to align practices with the requirements of the HCBS Settings Final Rule?

- Staffing patterns
- Access to transportation
- Education/training/technical assistance
- Understanding service definitions
- Budget/funding
- Licensing requirements
- Other
- No barriers/challenges



# Throughout the assessment process, have you identified any strategies or next steps to align practices with the requirements of the HCBS Settings Final Rule?

Staffing patterns

Access to transportation

Education/training/technical assistance

Understanding service definitions and expectations

Budget/funding

Other



# Person-Centered Practices

# Person-Centeredness

**Person-Centered Thinking** is a way of thinking that helps create the means and resources for a person to live a life that they value.

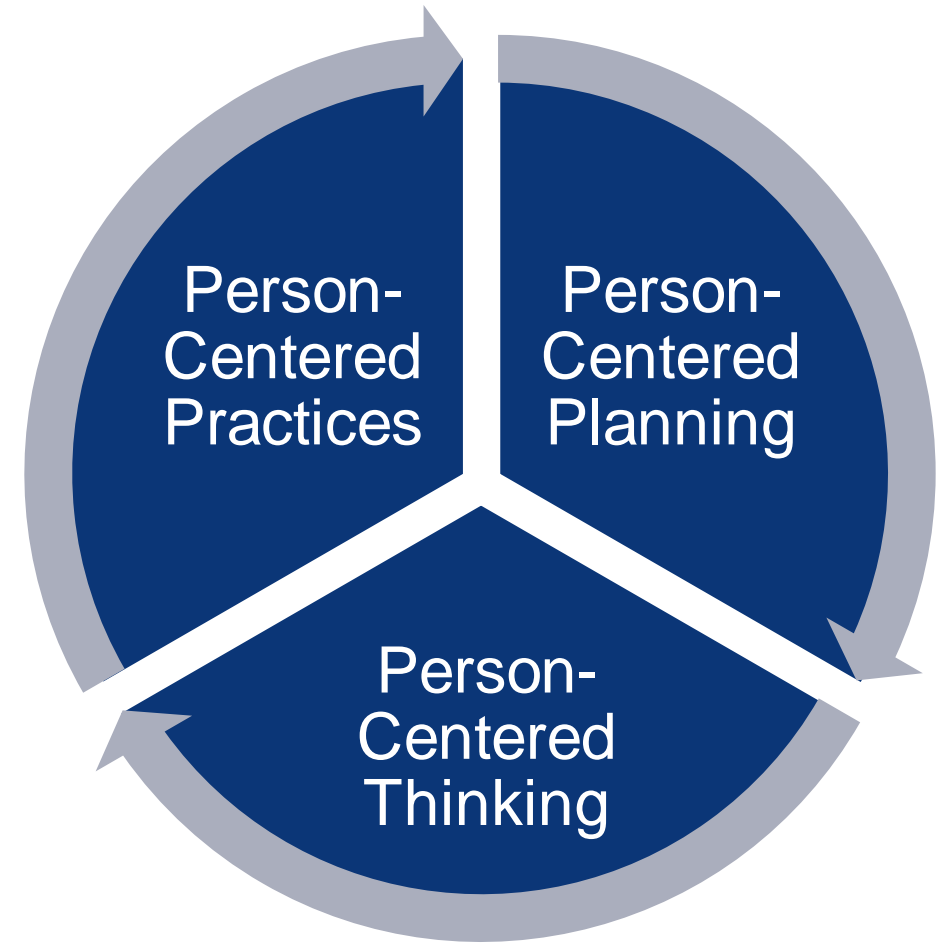
**Person-Centered Planning** is a way to assist people needing HCBS services and supports to construct and describe what they want and need to bring purpose and meaning to their life.

**Person-Centered Practice** is the alignment of service resources that give people access to the full benefits of community living and ensure they receive services in a way that may help them achieve individual goals. **It incorporates both Person-centered thinking and Person-centered planning.**



# Person-Centeredness

- All strategies and examples for aligning practices start with strong person-centered planning.
- Person-centeredness goes beyond the plan.
- Discovery and planning are ongoing.
- The ongoing conversations that happen between direct support staff and individuals should be documented in the individual's plan and reflected in daily life.



# Implementing Person-Centered Planning

## Ongoing conversation/ communication

- Initiate conversation with participants and their families
- What's working, what isn't working
- Recognize changes
- Support self-advocacy



## Staffing

- Ongoing training, guidance and support
- Reassess staffing models
- Access to plans in all settings



## Supporting Policies

- Reflective of person-centered practices



**What are some examples of how you have been implementing person-centered planning and practices?**

# Modifications to the Final Rule

- A specific and individualized assessed need.
- Positive interventions and supports used prior to any modification(s).
- Less intrusive methods of meeting the need that have been tried but did not work.
- Clear description of the condition(s) that is directly proportionate to the specific assessed need.



# Modifications to the Final Rule

- Review of regulations and data to measure the ongoing effectiveness of the modification(s).
- Established time limits for periodic reviews to determine if the modification(s) is still necessary or can be terminated.
- Informed consent of the individual.
- An assurance that interventions and supports will cause no harm to the individual





**What are best practice strategies for maintaining a person-centered approach through remote services?**



# **Strategies to Align Practices with the HCBS Settings Final Rule**

**A few thoughts to keep in mind  
while the ongoing implementation  
of the HCBS Settings Final Rule  
continues during the pandemic**

# Access to the Community

## Challenges/Barriers

- Lack of employment opportunities
- Limited interest leaving the home
- Limited transportation options

## Strategies

- Community is referring to the places you live, work, and recreate
- Knowing and understanding a person's goals, desires and needs
- Community Connections
  - Clubs/memberships
  - Volunteer opportunities
  - Church/religious organizations
  - Theaters, arts
  - Virtual connections to friends and families
  - Transportation opportunities
  - Virtual social committees and groups
- Community Advisory Boards
- Comprehensive interest and vocational inventories and assessments-key components to good PCP
- Job experience and exposure opportunities
- Development of soft skills, i.e. resumes, interviewing skills, job searching
- Leverage technology for competitive integrated employment opportunities





***How is individual  
choice reflected in  
competitive  
integrated  
employment?***

# Choice of Setting

## Challenges/Barriers

- Non-disability specific settings for living
- Community, integrated employment instead of segregated settings

## Strategies

- Understanding each individual's desired outcomes
- Community options, including owning or leasing own home or apartment/condominium
- Roommate without disabilities or other shared living situations
- Opportunity to tour and/or tryout other setting options will lead to informed choice
- Job exploration and job discovery assessments
- Higher education
- Benefits counseling





***If a person has been participating in the program or living in the home for a long time, how can we be sure that this is the setting they choose?***

# Right to be Treated Well

## Challenges/Barriers

- Uniform house rules
- Environment looks like a facility or institutional setting
- People do not plan menus, grocery shop or participate in meal preparation
- Personal belongings cannot be securely stored or are discouraged
- Medication administration is done publicly

## Strategies

- **No blanket restrictions\***
- Knowing and understanding a person's goals, desires, and needs
- Modifications must follow the requirements and be outlined in the ISP
- Remove employee labor postings from common areas
- Conduct medication management in private and not during/after mealtimes in common areas
- Lockable storage space
- Ask, "Would I want to live here?"
- Residential settings
  - Rights Council
  - Keys



# No blanket restrictions

**Any blanket/group/broad restrictions are still subject to the same type of review and approval as other restrictions. Here are a few guidelines:**

- Currently we are all living with government enforced restrictions
  - Social distancing guidelines
  - Health and safety restrictions such as wearing masks or other PPE in public
  - Restrictions on travel, visitors and access to services and businesses
- These types of restrictions should be explained to people as thoroughly as possible.
- These restrictions may be lifted/revised for all of us at some point.
- If there is a need for ongoing restrictions of this nature, they will need to be individualized, addressed through the approval process, and documented in the service plan.







***The setting provides a meal plan. How can we incorporate individual choice in the meal planning process?***

# Independence

## Challenges/Barriers

- Tasks are done for people not with people
- All activities are done as a group
- Services such as haircuts, nail services, and so forth are done in the home not in the community
- Staff maintain eyes on supervision at all times

## Strategies

- Knowing an individual's desires for independence and working with them to realize their goal in a person-centered manner is essential to effectively supporting a person
- Support individuals in completing household tasks
- Utilize technology and training techniques to support alone time
- What can be put in place so I may remain in my own home when I do not want to go with the group? Technology, remote monitoring, check-ins
- Ensure individuals have choice of community doctors, hairdressers, churches, etc.





***If people choose to have services provided in the home, rather than the community, is that in alignment with the Final Rule?***

# Choice of Services and Supports

## Challenges/Barriers

- People don't know what they don't know
- Individuals need to have options to participate in and learn self-advocacy skills

## Strategies

- Knowing and understanding each person's goals, desires, and needs
- Train direct support staff on planning process that includes person-centered thinking, processes and planning
- Staff need to provide information on options (residential and employment) and not expect a person to know the options
- Support self-advocacy
- Invest time in the pre-planning, discovery-get to know the person
- Assist people to have exploratory experiences with types of work
- Support people to visit other type of residential settings





***How do we support individuals that are deaf, blind, or nonverbal to make individual choices?***

# Residential Agreement

## Challenges/Barriers

- Individuals do not currently have a lease
- An admission document exists but does not contain all the required elements as specified in the Final Rule

## Strategies

- Knowing and understanding a person's goals, desires, and needs for their living arrangement
- Working with your regional center to make sure the current agreement contains all of the elements of the Final Rule
- Model/sample agreements can be developed or provided to agencies
- Agreements should be signed and dated
- People should be given a copy of the lease
- Agreements should be explained and understood by residents





***Does the residence agreement meet the requirement for a legally enforceable lease agreement?***

# Privacy

## Challenges/Barriers

- Medications are administered in public areas
- Bedroom and bathroom doors do not lock

## Strategies

- Knowing and understanding a person's desires and needs in terms of their privacy
- Bedroom doors should lock and people should have keys.
- Bathroom doors should be able to be closed and doors should have locks that individuals may choose to use
- Privacy should be provided in a respectful manner and honor the individual's desires







***How can we support someone with a severe allergy without posting it for all staff to see?***

# Schedule and Access to Food

## Challenges/Barriers

- Mealtimes are set and there is no flexibility
- Breaks and snack are provided only at set times

## Strategies

- Accommodations should be available based on individual wants, needs and requests
- Mealtimes should be flexible and set with the participation of people living in the setting



***How do we balance the requirements of the Final Rule with health and safety concerns?***

# Right to Visitors

## Challenges/Barriers

- People have no place to privately meet with guests
- Visitors are restricted to certain times

## Strategies

- Knowing and understanding a person's goals, desires, and needs for visitation
- Practices and rules around visitors should be set with the individuals living in the home
- Individuals should have access to private spaces, including their bedrooms for visitors
- Crisis situations, such as the pandemic, have resulted in restrictions for all people regardless of where they are living. These restrictions are time-limited and specific to health and safety conditions relevant to the public health of all





***How do we allow  
visitors during the  
COVID-19 pandemic?***

# Accessibility

## Challenges/Barriers

- Physical barriers make the home or the day/employment inaccessible to people with disabilities
- Certain areas have prohibited access such as kitchens, laundry rooms, staff only rooms

## Strategies

- Knowing and understanding a person's needs for accessibility
- Physical barriers must be removed so people have complete access to the setting
- Do not restrict bathroom access
- Remove unintended barriers
- If an individual's access to certain areas of the home or day/employment setting is limited this must be addressed in the service plan
- Access to technology should be explored as an option to address accessibility issues





***How do we balance  
the HCBS Settings  
Final Rule with state  
licensing  
requirements?***

# Next Steps



# Next Steps

1. **Develop a plan to meet the requirements**



Regional Centers will work with each provider to help them **develop remediation plans** and provide **ongoing training and technical assistance**

2. **Site assessments will be conducted**



Site assessments will be conducted for **randomly selected settings**, in addition to those that **do not complete a self assessment**.

3. **Remediation**



Remediation activities can begin as soon as the **provider self-identifies** any area **where there can be improvement**



# Resources

# Questions about the HCBS Final Rule?

**General Questions about compliance determinations:**  
Vendoring Regional Center

**HCBS Questions related to the Statewide Transition Plan:**  
Department of Developmental Services  
[hcbsregs@dds.ca.gov](mailto:hcbsregs@dds.ca.gov)



# Resources

## **CMS HCBS Information:**

<https://www.medicaid.gov/medicaid/home-community-based-services/home-community-based-services-guidance/index.html>

## **CMS Heightened Scrutiny Guidance:**

<https://www.medicaid.gov/sites/default/files/Federal-Policy-Guidance/Downloads/smd19001.pdf>

## **California Statewide Transition Plan:**

<https://www.dhcs.ca.gov/services/ltc/Pages/HCBSStatewideTransitionPlan.aspx>

## **California DDS Website:**

<https://www.dds.ca.gov/initiatives/cms-hcbs-regulations/>



# Exit Survey

**Please provide feedback on this training:**

<http://bit.ly/CAExitSurvey10-1-20>



# Common Terms

# Common Terms

Term	Definition
<b>HCBS</b>	Home and Community-Based Services include residential and day/employment support but does not include room and board costs.
<b>CMS</b>	Centers for Medicare and Medicaid Services is the federal agency responsible for the final rule.
<b>HCBS Settings Final Rule ("Final Rule")</b>	Federal regulation from CMS which defines what an HCBS Setting should look like and how individuals should be supported in those settings.
<b>Statewide Transition Plan (STP)</b>	Guiding document every state must create as part of the HCBS Settings Final Rule. This document outlines the state's process for assessing the state's policies, procedures, rules and regulations, as well as all HCBS settings.
<b>Self-Assessment</b>	A survey completed by providers, with input from the people they serve and their families, to assess their settings' level of compliance with the HCBS Settings Final Rule.





# Common Terms

Term	Definition
<b>Individual</b>	Someone that receives services. You might also hear, “consumer”, “participant”, or “client”.
<b>Family member</b>	A parent, sibling, child, or other relative of an individual that receives services.
<b>Advocate</b>	A person who speaks or writes in support or defense of a person or a group of people. An individual may advocate on their own behalf or agree to have another person do so.
<b>Regional Center</b>	A nonprofit private organization that contracts with DDS to provide or coordinate services and supports for individuals with developmental disabilities. They have offices throughout California to provide a local resource to help find and access the many services available to individuals and their families.
<b>Service Provider</b>	An organization that contracts with DDS to provide or coordinate services and supports for individuals with developmental disabilities.
<b>IPP – Program Plan</b>	The agreement between the individual and the regional center that lists the goals of the individual and the services and supports the regional center will provide to support those goals.
<b>ISP – Service Plan</b>	The agreement between the individual and the service provider that lists the goals of the individual and the supports, activities, and resources planned to support those goals.

# Common Terms

Term	Definition
<b>Lanterman Act</b>	California law that promises services and supports to all people with developmental disabilities and their families.
<b>DDS</b>	California's Department of Developmental Services is the state department that oversees the local regional centers.
<b>Setting</b>	Location where individuals receive services, such as residential or day/employment program.
<b>Provider Owned and Controlled Settings</b>	Settings where supports and services are provided (residential or day/employment) in a building that the provider agency owns or leases in the company name.
<b>Remediation</b>	Process of working with providers to make changes to come into compliance with the HCBS Settings Final Rule.
<b>Heightened Scrutiny</b>	A term used in the Final Rule to describe a process for identifying and correcting issues or problems found during the assessment process.

# Common Terms

Term	Definition
HIPAA	Health Insurance Portability and Accountability Act of 1996.
PHI	Protected Health Information.
FAQ	Frequently Asked Questions.
Waiver	A term used to refer to the federal program that funds the home and community-based services and supports. Terms such as 1915(c) or 1915(i) identify which section of the Social Security Act (another federal regulation) that created the HCBS program
Medicaid	Health insurance program which pays for medical services such as doctors, hospitalizations, medication, therapies, home and community-based services, nursing facility care, etc.
Medi-Cal	California's Medicaid program
Medicaid Authority	The term CMS uses to describe the type of HCBS program and its requirements





**PUBLIC**  
CONSULTING GROUP

**Solutions that Matter**