

# Training for Direct Support Professionals (DSPs)

## Understanding the HCBS Final Rule

January 2025

NEBRASKA

Good Life. Great Mission.

DEPT. OF HEALTH AND HUMAN SERVICES

*Helping People Live Better Lives.*

# History and Background

Federal regulation promulgated by CMS in 2014.

There was a nine-year transition period for states to come into compliance.

Went into full effect  
**March 2023.**

## Settings the HCBS Final Settings Rule Applies to:

- DD Group Homes
- DD Shared Living and Host Homes
- Provider-Operated Day Service Sites
- Assisted Living Facilities

**NEBRASKA**

Good Life. Great Mission.

DEPT. OF HEALTH AND HUMAN SERVICES

*Helping People Live Better Lives.*

# Intent of the HCBS Final Settings Rule



Enhance quality of services and person-centered planning.



Add protections for participants in waiver services.



Participants are integrated in their communities.



Settings do not have institutional features.

**NEBRASKA**

Good Life. Great Mission.

DEPT. OF HEALTH AND HUMAN SERVICES

*Helping People Live Better Lives.*

# Federal Requirements for HCBS Settings

- The setting is integrated in and supports full access to the greater community, including opportunities for employment, engagement in community life, control personal resources, and receive services in the community, to the same degree of access as people not in waiver services.
- The setting is selected by the individual from among setting options including non-disability specific settings, based on the individual's needs, preferences, and resources.
- The setting ensures an individual's rights of privacy, dignity, and respect, and freedom from coercion and restraint.
- The setting 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.
- The setting is physically accessible.
- The setting facilitates individual choice regarding services and supports, and who provides them.
- The setting provides for a legally enforceable agreement between the provider and the consumer that allows the consumer to own, rent, or occupy, the residence and provides protection against eviction.
- The setting provides for privacy in units including lockable doors, choice of roommates/housemates, and freedom to furnish and decorate the sleeping or living units within the lease or other agreement.
- The setting provides options for individuals to control their own schedules including access to food at any time.
- The setting provides individuals the freedom to have visitors at any time.

**NEBRASKA**

Good Life. Great Mission.

DEPT. OF HEALTH AND HUMAN SERVICES

*Helping People Live Better Lives.*

# #1 – Community Integration

The setting is integrated and supports full access of to the greater community, including opportunities to seek employment, engage in community life, control personal resources, and receive services in the community, to the same degree of access as people not in Medicaid services.

- Does the participant engage in scheduled and unscheduled activities in their community?
- Can the participant come and go as they choose?
- Does the setting provide opportunities for a variety of age-appropriate, meaningful activities?
- Is the setting located amongst other residences and/or businesses to facilitate integration?
- Does the setting have information available about opportunities for employment, volunteering, and recreational activities and support participants to access them?
- Does the participant have access to their personal funds to spend as they wish?

## Examples of Possible Non-Compliance

- Participant always has to schedule ahead of time when they want to go to the store or library.
- The day site does not have many options for activities in accordance with peoples' preferences (both in community settings and at the site).
- The participants in a group home rarely leave the house unless they can choose a group activity.
- A participant says they are interested in seeking employment and the provider doesn't facilitate accessing resources via Vocational Rehabilitation.
- The activities available only include children's puzzles, coloring books, and movies.
- The participant can only access their money by going to the provider's business offices on weekdays during business hours.

**NEBRASKA**

Good Life. Great Mission.

DEPT. OF HEALTH AND HUMAN SERVICES

*Helping People Live Better Lives.*

# #2 – Choice of Settings

The setting is selected by the individual from among setting options including non-disability specific settings. The settings options are identified and documented in the person-centered plan and are based on the individual's needs, preferences, and resources.

- Was the participant given a choice of available options for where to live/receive services?
- Was the participant given the opportunity to tour other settings?
- Does the setting reflect the participant's needs and preferences?
- Do the options offered include services delivered in a non-disability specific setting?

## Examples of Possible Non-Compliance

- When reviewing service options, only those in provider-operated settings are explained.
- Participant expressed interest in a variety of providers, but were encouraged to choose one without the opportunity to visit different options.
- The participant expresses that they do not like going to the hub, and options to provide the service entirely in integrated community settings isn't discussed or explored.

# #3 – Individual Rights

**The setting ensures an individual's rights of privacy, dignity, and respect, and freedom from coercion and restraint.**

- Is there a readily accessible complaint process and is information about how to make a complaint available to participants?
- Is private information kept private and discussed discreetly?
- Are participants groomed as they prefer and dressed in age and seasonally appropriate clothing of their preference?
- Do staff talk about participants as if they are not present?
- Do staff address participants as they prefer?
- Are restrictions only used with informed consent and in accordance with division policy?

## **Examples of Possible Non-Compliance**

- Staff discuss participants' medical diagnoses and treatments in common spaces where anyone can hear.
- The provider does not have a complaint process, or their complaint process is not accessible.
- Staff call all the participants "honey" or "sweetie" rather than their names or preferred way to be addressed.
- Staff use rights restrictions without team/guardian/ HLRC approval.
- Staff habitually talk about participants, not with them.
- A participant needs support with nailcare, but their nails are frequently long, ragged, and dirty.
- Participants in a group home sit around in their pajamas all day on weekends, even if that is not their preference.
- Participants frequently are dressed in stained, ill-fitting clothes.

**NEBRASKA**

Good Life. Great Mission.

DEPT. OF HEALTH AND HUMAN SERVICES

*Helping People Live Better Lives.*



# #4 – Individual Autonomy

The setting 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.

- Are there locked doors or other barriers preventing participants from accessing common/shared spaces or interacting with other groups of people?
- Are a variety of group and individual activities offered to support participants with varying interests and needs?
- Can participants engage in legal activities for their age (voting, smoking/vaping, drinking alcohol)?
- Can participants eat meals when they choose and with others or alone?

## Examples of Possible Non-Compliance

- There are doors between different areas/groups in the day site and participants are not allowed to move between them or interact with other groups.
- All activities offered are group in nature and there are not activities or support for those who want more solitary activities.
- Participants served in the setting are not allowed to smoke, vape, or drink alcohol if they want.
- The break room at a day site is kept locked so participants cannot access food/drink and personal items stored there without staff support.
- A participant is told they cannot engage in an activity if others in that setting are not interested in joining them.

*Helping People Live Better Lives.*

**NEBRASKA**

Good Life. Great Mission.

DEPT. OF HEALTH AND HUMAN SERVICES



# #5 – Choice of Services and Supports

**The setting facilitates individual choice regarding services and supports, and who provides them.**

- Does the individual know who to talk to about requests to change providers?
- Would the provider support the participant to talk with their SC or team if they expressed a desire to consider other provider options?
- Does the participant express satisfaction with their service provider and supports?
- Does the setting ensure participants are supported to express their preferences and exercise autonomy to the greatest extent possible?
- Is the participant actively involved in the planning of their services and supports?

## **Examples of Possible Non-Compliance**

- Participant has stated they are curious about what other provider options there may be, but their current provider discourages them from discussing it with their SC and team.
- The participant shared their preferences for their supports and activities with their team and these preferences are in their plan, but the provider does not honor these preferences in the participant's services.
- The provider consistently does not make an effort to support and engage the participant in their meetings.

**NEBRASKA**

Good Life. Great Mission.

DEPT. OF HEALTH AND HUMAN SERVICES

*Helping People Live Better Lives.*

# #6 – Lease or Residency Agreement

The setting provides for a legally enforceable agreement between the provider and the consumer that allows the consumer to own, rent, or occupy, the residence and provides protection against eviction.

- Does the participant have a lease or, for settings where landlord/tenant laws do not apply, a residency agreement?
- Does the participant know their housing rights and when they could be required to move?
- Does the written agreement provide protections to address eviction processes and appeals comparable to local landlord/tenant laws?
- Does the lease/agreement contain provisions that are legally enforceable and not in conflict with other applicable law/regulation/policies?

## Examples of Possible Non-Compliance

- No lease agreement is in place for a participant living in a shared living, host home, or group home setting.
- The lease agreement does not contain protections from eviction and appeal rights consistent with or in excess of landlord/tenant laws.
- The lease states the participant waives their right to appeal an eviction.
- The lease states that visitors are not allowed unless approved by the landlord/provider.

**NEBRASKA**

Good Life. Great Mission.

DEPT. OF HEALTH AND HUMAN SERVICES

*Helping People Live Better Lives.*

# #7 – Privacy, Roommate Choice and Décor/Furnishing

**The setting provides for privacy in units including lockable doors, choice of roommates/housemates, and freedom to furnish and decorate the sleeping or living units within the lease or other agreement.**

- Can the participant close and lock their bedroom and bathroom doors?
- Do others knock before entering private spaces?
- Are keys to the home only given to those who need them?
- Is the furniture arranged as the participants prefer?
- Are cameras present in areas with an expectation of privacy?
- Do the furniture and household items reflect the participants' personal choices?
- Do participants have private rooms or share rooms only if they choose to and with whom they choose?

## **Examples of Possible Non-Compliance**

- The participant only has a curtain across the doorway to their bedroom.
- The provider issues a “master key” to group home staff that works on many different homes beyond the one each staff works in.
- Participants are not allowed to decorate their room or common areas of their home (within reason).
- The furniture is arranged by the provider and participants are not allowed to move things around.
- Staff go in and out of participant rooms or bathrooms when they are occupied without knocking or asking permission to enter.

**NEBRASKA**

Good Life. Great Mission.

DEPT. OF HEALTH AND HUMAN SERVICES

*Helping People Live Better Lives.*

# #8 – Schedule Control and Access to Food

**The setting provides options for individuals to control their own schedules including access to food at any time.**

- Can the participant choose to eat their meal at the time/place of their choosing?
- If there is a menu, can the participant request an alternate meal?
- Are snacks available and accessible at all times?
- Is the participant able to eat alone or with whom they choose?
- Is it clear that the participant is not required to adhere to a set schedule for things like meals, bathing, waking, and bedtime?
- Does the participant's schedule vary from day to day or differ from others served in the same setting if they choose?

## **Examples of Possible Non-Compliance**

- The participant is discouraged from or not allowed to have a snack at 2 AM if they want.
- There are “house rules” about use of TV/internet at certain hours.
- Participant is expected to bathe every day in the morning when that is not their preference.
- The participant is expected to eat what is on the menu and alternatives are not offered/allowed.
- The participant cannot eat in a different area of the house than everyone else if they choose.
- The participant is not allowed to eat their meal with who they want at day services because there are assigned seats in the dining area.

**NEBRASKA**

Good Life. Great Mission.

DEPT. OF HEALTH AND HUMAN SERVICES

*Helping People Live Better Lives.*

# #9 –Visitors

**The setting provides individuals the freedom to have visitors at any time.**

- Do day sites encourage visitors from the broader community or otherwise encourage interaction with members of the public?
- Are visitors allowed?
- Are visitors limited to specific hours?
- Are visitors restricted to a specific area?
- Do visitors have to be approved by the provider ahead of time?

## **Examples of Possible Non-Compliance**

- A participant's family or friend cannot visit them for lunch at their day site.
- A participant is not allowed to invite a friend to visit them at their home.
- Overnight guests are prohibited.
- Visitors are only allowed in the living room of a participant's home.
- Visitors have to be approved by the provider and housemates' teams before they can visit.
- A participant is allowed to visit a friend at their home, but that friend cannot come visit the group home.

**NEBRASKA**

Good Life. Great Mission.

DEPT. OF HEALTH AND HUMAN SERVICES

*Helping People Live Better Lives.*

# #10 – Physical Accessibility

**The setting is physically accessible.**

- Are there grab bars, ramps, and other accessibility items in place for those who need them?
- Are there viable exits for emergencies?
- Are appliances accessible to participants?
- Are tables and chairs at a convenient height and arranged so participants can use the furniture comfortably?
- Is the setting free of obstructions that would limit participant mobility within the setting?
- If obstructions are present, are there environmental adaptations like lifts, elevators, ramps, etc.?

## **Examples of Possible Non-Compliance**

- Bathrooms at a day site are not large enough for a person who uses a wheelchair to be supported.
- Emergency exits are not accessible to those with mobility needs.
- A front-loading washer/dryer are not provided for a participant in a wheelchair.
- Furniture is arranged in a way that makes it difficult for a person with a fall risk to navigate the environment.
- There is a step between areas of the setting with no lift or ramp, making areas inaccessible to those with mobility needs.
- Lighting and visibility accommodations aren't made in the home of a participant with vision impairment.

**NEBRASKA**

Good Life. Great Mission.

DEPT. OF HEALTH AND HUMAN SERVICES

*Helping People Live Better Lives.*



# Modifications of the 10 Requirements

- Federal regulation allows for “modifications” of Final Settings Rule requirements, but only when the need for modification is supported by an assessed need and justified in the participant’s plan.
- Documentation of the modification must include:
  - The specific, individualized need;
  - Positive interventions and supports used previously;
  - Less intrusive methods that have been tried;
  - Description of the condition that is proportionate to the assessed need;
  - Collection and review of data to assess the effectiveness of the modification;
  - Time limits for periodic reviews;
  - Informed consent; and
  - Assurance that interventions will not harm the participant.

NEBRASKA

Good Life. Great Mission.

DEPT. OF HEALTH AND HUMAN SERVICES

*Helping People Live Better Lives.*

# Proactive Steps for Direct Support Professionals

## 1. Embrace Person-Centered Planning

### **Involve Participants**

Actively engage participants and their families in the care planning process. Listen to their preferences, needs, and goals.

### **Tailored Care Plans**

Develop individualized care plans that reflect each participant's unique situation and aspirations.

### **Regular Reviews**

Conduct regular reviews of care plans to ensure they remain relevant and effective.

**NEBRASKA**

Good Life. Great Mission.

DEPT. OF HEALTH AND HUMAN SERVICES

*Helping People Live Better Lives.*

# Proactive Steps for Direct Support Professionals

## 2. Enhance Health and Safety

### Conduct Assessments

Perform regular health and safety assessments of participants' living environments to identify and mitigate risks.

### Implement Safety Measures

Install safety features such as grab bars, handrails, and fall detection devices to prevent accidents.

### Medication Management

Provide support for managing medications, including setting up pill organizers and developing simplified medication schedules.

**NEBRASKA**

Good Life. Great Mission.

DEPT. OF HEALTH AND HUMAN SERVICES

*Helping People Live Better Lives.*

# Proactive Steps for Direct Support Professionals

## 3. Focus on Quality Improvement

### Monitor and Evaluate

Continuously monitor the quality of care through regular assessments, feedback, and data analysis.

### Implement Best Practices

Stay updated on best practices and incorporate them into daily care routines.

### Address Complaints

Promptly address any complaints or concerns from participants and their families to improve care quality.

**NEBRASKA**

Good Life. Great Mission.

DEPT. OF HEALTH AND HUMAN SERVICES

*Helping People Live Better Lives.*

# Proactive Steps for Direct Support Professionals

## 4. Promote Transparency and Accountability

### **Clear Communication**

Maintain open and transparent communication with participants about their care, services, and any changes.

### **Document and Report**

Keep thorough documentation of care activities, incidents, and participant progress. Report any issues promptly.

### **Follow Procedures**

Adhere to established procedures for incident management, grievance handling, and quality improvement.

**NEBRASKA**

Good Life. Great Mission.

DEPT. OF HEALTH AND HUMAN SERVICES

*Helping People Live Better Lives.*

# Proactive Steps for Direct Support Professionals

## 5. Foster Community Inclusion

### Encourage Engagement

Support participants in engaging with their communities through social activities, volunteer opportunities, and community events.

### Promote Independence

Empower participants to make choices and take control of their daily lives, fostering a sense of independence and self-worth.

**NEBRASKA**

Good Life. Great Mission.

DEPT. OF HEALTH AND HUMAN SERVICES

*Helping People Live Better Lives.*



# Conclusion

---

## Key Points

- Summary of HCBS Final Rules.
- Importance of following these rules for quality care.

## Encouragement

- Emphasize the positive impact on care providers and participants.
- Encourage ongoing learning and adherence to the rules.

**NEBRASKA**

Good Life. Great Mission.

DEPT. OF HEALTH AND HUMAN SERVICES

*Helping People Live Better Lives.*

# Resources

---

- Federal Regulation – [42 CFR § 441.530](#)
- [CMS HCBS Final Settings Rule Compliance Toolkit](#)
  - Technical guidance issued by CMS.
  - Exploratory questions for assessing compliance.
- [DDD Final Settings Rule Webpage](#)
  - Visual aids laying out the 10 federal requirements.
  - Nebraska's state transition plan.
  - Recorded CQL trainings on the Final Settings Rule.
  - Resources and assessment tools developed by the DDD QI team.
- [Landlord and Tenant Handbook](#)
  - Resource developed by Legal Aid of Nebraska to educate landlords and tenants on their rights under Nebraska state law.

**NEBRASKA**

Good Life. Great Mission.

DEPT. OF HEALTH AND HUMAN SERVICES

*Helping People Live Better Lives.*

# DD Quality Assurance Team

Paul Edwards

Quality Administrator

[Paul.Edwards@Nebraska.gov](mailto:Paul.Edwards@Nebraska.gov)

Sarah Henrichs

Quality Assurance Coordinator

[Sarah.Henrichs@Nebraska.gov](mailto:Sarah.Henrichs@Nebraska.gov)

Wanda Kelley

Quality Assurance Coordinator

[Wanda.Kelley@Nebraska.gov](mailto:Wanda.Kelley@Nebraska.gov)



@NEDHHS



NebraskaDHHS



@NEDHHS

[dhhs.ne.gov](http://dhhs.ne.gov)

NEBRASKA

Good Life. Great Mission.

DEPT. OF HEALTH AND HUMAN SERVICES

*Helping People Live Better Lives.*