Hawaii DOH, Developmental Disabilities Division
Webinar on HCBS Compliance Evidence Templates - Residential
January 14, 2021
Today’s Agenda

HCBS Settings Final Rule Compliance:
Developing Your Evidence Templates
Sharon Lewis, Health Management Associates

• Reminder: What are the federal requirements under the rule?
• What are the compliance goals for DDD?
• What is the DDD Evidence Template?
• How to complete the Template
• How to get help
• Q&A
HCBS Settings Final Rule: What is it, again?

- The rule identifies what is considered home and community-based – and what is not
- The goal of the rule is to make sure people receiving HCBS can live and work and spend time in the greater community in the ways they want, including with people who are not involved in services
- Each person’s experience, and their opportunity for community integration and participation is very important
Specifically, the rule requires settings to:

• Be integrated in and support access to the greater community
• Provide opportunities to seek employment and work in competitive integrated settings, engage in community life, and control personal resources
• Ensure the individual receives services in the community to the same degree of access as individuals not receiving Medicaid home and community-based services
• Be selected by the individual from among setting options, including non-disability specific settings and an option for a private unit in a residential setting
• Ensure an individual’s rights of privacy, dignity, respect, and freedom from coercion and restraint
• Optimize individual initiative, autonomy, and independence in making life choices
• Facilitates individual choice regarding services and supports, and who provides them
How do we get there?

2015-2017: Validations & Findings
Statewide effort - MCMW
Review teams on-site
Participant interviews

NOW: Evidence & Remediation
“Re-set” and establish baseline
Work with providers - evidence
Opportunity to learn and grow

Ongoing: Participant experience
Annual Certification visits
Annual provider monitoring, including evidence updates
What is the compliance level for DDD settings?

- Nearly all settings need some level of remediation or correction
- Providers, caregivers, families and people receiving services have many different interpretations and ideas of what’s possible
- We are close but have more work to do!!

**Residential Settings:**
Many homes have to make minor changes, such as:
- Residential agreement that align with Hawai`i landlord tenant laws
- Choice of setting and service provider
- Choice of schedule and activities
- Choice of roommate
- Choice and access to food
- Right to privacy- providing a lockable bedroom door

**Adult Day Health:**
Most settings will be able to come into compliance with some changes:
- People need more choices and chances to make decisions
- Daily schedules and activities need to be more individualized
- Some settings don’t protect privacy enough
- Need to better help participants understand and exercise their rights
- Access to the greater community needs to improve
Community Integration: Multiple Perspectives

- Evidence tool (all providers / caregivers)
- Certification requirements (AFH caregivers)
- Licensing requirements (ARCHs & DD Doms)
- Participant experience (person/family)
- Services oversight (case managers)
Residential HCBS Settings Requiring Evidence

- Adult Foster Homes (AFH)
- Developmental Domiciliary (DD Dom)
- Adult Residential Care Homes (ARCH and e-ARCH)
- Provider-Controlled Residences (unlicensed or uncertified homes where the provider is also the landlord or controlling party for the residence, or where the opportunity to live in the home includes services from a particular provider)
Other Residential Settings

• DO NOT NEED TO COMPLETE EVIDENCE TEMPLATE:
  Privately-owned or rented homes or apartments where participants live in an independent living arrangement with natural supports including family members, friends or roommates

• Ongoing monitoring will ensure that participants in independent living arrangements are able to live in settings compliant with the HCBS Final Rule requirements
Confirming and validating - ongoing

- Involving provider agencies (ResHab) with direct caregivers and DDD
- Alignment of certification rules and processes
- Revising provider monitoring to incorporate HCBS settings rule
- Case managers to gather personal experience information from participants
Confirming compliance and supporting remediation

• Building on the original HCBS assessments, DDD has created an evidence template for providers and caregivers to help demonstrate their compliance with the HCBS Final Settings Rule.

• The template asks providers to show evidence of how they are meeting the requirements based on the main elements of the rule:
  • Community integration and access to the greater community
  • Opportunities to work and control personal resources
  • Rights of privacy, dignity, respect, freedom from coercion and restraint
  • Support for individual choice and control, decision-making and independence
  • Opportunities to interact with others, have visitors, visit people, develop friendships and relationships
The Evidence Templates

• Residential Habilitation Agency-Multiple Settings
• Residential Single Setting
• Non-Residential Single Setting

• Today’s focus:
  • Residential Habilitation Agency-Multiple Settings
  • Residential Single Setting
The Residential Evidence Templates

MULTIPLE SETTING TEMPLATE
for each category of residence with the same P&Ps (AFH, DD-Dom, ARCH, e-ARCH)

Who holds certification/license of the residential setting?

Caregiver
  - Caregiver completes single setting evidence tool, provides to DDD and ResHab Agency

ResHab Agency
  - ResHab Agency must provide evidence for the individual settings EITHER through the multiple setting tool or through the single setting tool (or both)

SINGLE SETTING TEMPLATE
for each location (setting)

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The Residential Evidence Templates

ResHab Agency

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The Residential Evidence Templates

- ResHab Agency
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  - Who holds certification/license of the residential setting?
    - Caregiver
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  - SINGLE SETTING TEMPLATE for each location (setting)
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Caregiver
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  provides to DDD and ResHab
  Agency

ResHab Agency
- ResHab Agency completes single
  setting evidence tool
Tab One: Instructions

Instructions to complete the HCBS Compliance Evidence Template: Residential Habilitation Agency-Multiple Settings:

NOTE: This evidence template is applicable to Residential Habilitation (ResHab) agencies that provide ResHab services in multiple residential settings and should only be used if all residential settings are subject to exactly the same rules, policies, procedures, training curricula or other information offered by the agency as evidence of compliance.

1. Complete the date, provider information and descriptions requested on the “Provider Info” tab.

2. Agencies enrolled with Medicaid as providers of ResHab services funded by the Waiver, must provide evidence of compliance for each residential setting they own, co-own, and/or operate.

   Agencies may complete one HCBS Compliance Evidence Template: Residential Habilitation Agency-Multiple Settings for each group of a type of residential setting they own, co-own, and/or operate. Types of residential settings include: Adult Foster Home (AFH), DD Domiciliary Home, Adult Residential Care Home (ARCH), or Expanded Adult Residential Care Home (e-ARCH). Each residential setting included in one HCBS Compliance Evidence Template: Residential Habilitation Agency-Multiple Settings must be subject to exactly the same rules, policies, procedures, training curricula or other information offered by the agency as evidence of compliance and be listed on the “Settings Info” tab.

In addition, agencies should work with each licensed/certified caregiver responsible for their residential settings, to complete the HCBS Compliance Evidence Template: Individual Residential Provider and provide specific evidence of compliance for each individual, residential setting.

As an alternative, agencies may choose to forego use of the HCBS Compliance Evidence Template: Residential Habilitation Agency-Multiple Settings and complete one HCBS Compliance Evidence Template: Individual Residential Provider for each residential setting they own, co-own, and/or operate.

3. Agencies must demonstrate compliance with HCBS setting rules by sharing evidence that policies, procedures and operating practices are in place and regularly assessed for HCBS Settings compliance.

4. Each indicator requires a YES or NO answer. If the answer is “YES but with individual modifications” as determined by the participant’s circle of support and case manager, established with informed consent, and documented in the person-centered plan for some participant(s), the provider must indicate “Yes/Modif” and provide an explanation on the evidence template.

EXAMPLE: If a participant has Prader-Willi syndrome, and as a result, has health and safety needs related to restricted access to food, this can be acknowledged and indicated that the provider has policies and procedures in place to address this, consistent with the participant’s ISP. However, the provider should still be able to share evidence that other participants do not have this type of modification/restriction and are able to access food in a manner consistent with their needs and preferences.
The Evidence Template - Tab 2

• **Tab One:** Instructions
• **Tab Two:** Provider Information
The Evidence Template: Multiple Settings - Tab 3

• **Tab One:** Instructions
• **Tab Two:** Provider Information
• **Tab Three:** Settings list

<table>
<thead>
<tr>
<th>Type of Residential Setting</th>
<th>Street Address</th>
<th>City</th>
<th>Zip</th>
<th>Phone</th>
<th>Licensed/Certified Caregiver Name</th>
</tr>
</thead>
</table>
The Evidence Template - Tab 4

- **Tabs 4-9: Evidence Template Indicators**
  - Physical Location Characteristics

<table>
<thead>
<tr>
<th>Indicators</th>
<th>Yes or No</th>
<th>If YES, Evidence of Compliance with Rule</th>
<th>If NO, Proposed Remediation to Address Compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. The setting is NOT located in a building, or attached to a building, that is also a publicly or privately operated facility that provides inpatient institutional treatment.</td>
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<tr>
<td>2. The setting is NOT located in a building on the grounds of, or immediately adjacent to, a public institution.</td>
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<tr>
<td>3. The setting is NOT located where there are multiple facilities or settings serving people with disabilities co-located and operated or controlled by the same provider agency.</td>
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</tr>
<tr>
<td>4. The setting is NOT surrounded by high walls that obstruct or impede access to the setting.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### Tabs 4-9: Evidence Template Indicators

- **Community Integration**

<table>
<thead>
<tr>
<th>Indicators</th>
<th>YES or NO or Yes/Modif</th>
<th>If YES, Evidence of Compliance with Rule</th>
<th>If NO, Proposed Remediation to Address Compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Is each participant free to control their own daily schedules and activities?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Can each participant come and go (with or without supports) from the setting at any time without restrictions?</td>
<td></td>
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<tr>
<td>3</td>
<td>Is each participant supported to explore and pursue competitive integrated employment in the community if they choose to do so?</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Is each participant supported to engage in off-site community activities based on their interests?</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
The Evidence Template - Tab 6

- **Tabs 4-9: Evidence Template Indicators**
  - Choice of Settings

| HCBS Requirement 2: 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 and preferences. |
|---|---|---|
| Indicators | YES or NO or Yes/Modif | If YES, Evidence of Compliance with Rule |
| 1 | Is each participant supported to lead and actively participate in their person-centered planning process, including pre-planning and planning meetings? | If NO, Proposed Remediation to Address Compliance |
| 2 | Does each participant have regular opportunities to update their plan, including their activities and preferences, or when there is a change in their needs? | |
| 3 | Does each participant receive services and supports in location(s) of their choosing? | |
| 4 | Does the setting reflect individual needs and preferences? | |
The Evidence Template - Tab 7

- **Tabs 4-9: Evidence Template Indicators**
  - Rights of Privacy, Dignity, Respect, Freedom from Coercion and Restraint

| HCBS Requirement 3: The setting ensures an individual's right of privacy, dignity, and respect and freedom from coercion and restraint. |
|---|---|
| **Indicators** | **YES or NO**
| Is each participant supported to know and understand their program rights, including access to a copy of the rights in a manner and format that is accessible and understandable for them? | **YES or NO** **Yes/Modif** |
| Does each participant know what to do if they have a problem with staff or their services (i.e. do they know how to reach out to their case manager, or how to file an anonymous complaint)? | **If YES, Evidence of Compliance with Rule** **If NO, Proposed Remediation to Address Compliance** |
| Is each participant supported to access information on resources like the Hawaii Disability Rights Center (HDRC) and Adult Protective Services (APS)? | **If YES, Evidence of Compliance with Rule** **If NO, Proposed Remediation to Address Compliance** |
| Does the setting assure that staff interact and communicate with each participant respectfully and in an effective manner? | **If YES, Evidence of Compliance with Rule** **If NO, Proposed Remediation to Address Compliance** |
The Evidence Template - Tab 8

Tabs 4-9: Evidence Template Indicators

- Supporting Initiative, Autonomy, and Independence

<table>
<thead>
<tr>
<th>Indicators</th>
<th>YES or NO or Yes/Modif</th>
<th>IF YES, Evidence of Compliance with Rule</th>
<th>IF NO, Proposed Remediation to Address Compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Does each participant have individualized and variable schedules that change (daily or weekly) consistent with their individual preferences and needs?</td>
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<tr>
<td>Is each participant supported to make informed choices, and to exercise those choices, about opportunities to participate in activities of interest, both within the setting and in the broader community?</td>
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<tr>
<td>Is each participant supported if they want to use, or learn how to use, public transportation options (e.g. bus schedules, training to use the bus, etc.)?</td>
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<tr>
<td>Are all areas of the setting physically accessible to all participants? (i.e. are participants able to maneuver through the building or campus?)</td>
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</table>
### The Evidence Template - Tab 9

- **Tabs 4-9: Evidence Template Indicators**
  - Choice of Services, Supports and Providers

#### HCBS Requirement 5: The setting facilitates individual choice regarding services, supports, and who provides them.

<table>
<thead>
<tr>
<th>Indicators</th>
<th>YES or NO or Yes/Modif</th>
<th>If YES, Evidence of Compliance with Rule</th>
<th>If NO, Proposed Remediation to Address Compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Is each participant asked about their needs and preferences, and are they provided support to understand their choices and make informed decisions?</td>
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</tr>
<tr>
<td>2. Is each participant supported to know how to request a change in service provider, setting, or support staff?</td>
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</tr>
</tbody>
</table>
The Evidence Template: Modifications

• For Each Indicator:
  • Yes (compliant with evidence)
  • No (describe plan to remediate)
  • Yes, with Modifications (compliant with evidence for most participants; health and safety modifications may be needed for a small number of participants)

• Tab Two: Provider Information
  • "Please describe your policies, procedures and practices related to identifying, documenting and reviewing individual modifications (as necessary) for individual participants.

NOTE: An addendum to the Individualized Service Plan (ISP) to be completed by the case manager, participant and circle of support, that documents the requirements, as well as further training, will be provided by DDD. We understand that providers may not have formal policies and procedures in place. Please describe your understanding of procedures and practices that support individual modifications."
What are Modifications?

- Modifications are strategies to address health and safety risks that restrict a participant’s rights under the HCBS requirements.
  - There may be situations when a person needs restrictions because of health and safety risks.
  - Circles of support should work to identify healthy, positive opportunities for the participant to enjoy HCBS and address health and safety needs without modifications first.
  - Modifications should only be considered when no other less restrictive alternatives are available.
Modifications: Documented and Approved

- Identify a specific and individualized assessed need.
- Document the positive interventions and supports used prior to any modifications to the person-centered service plan.
- Document less intrusive methods of meeting the need that have been tried but did not work.
- Include a clear description of the condition that is directly proportionate to the specific assessed need.
- Include regular collection and review of data to measure the ongoing effectiveness of the modification.
- Include established time limits for periodic reviews to determine if the modification is still necessary or can be terminated.
- Include the informed consent of the individual.
- Include an assurance that interventions and supports will cause no harm to the individual.
Examples of Modifications

• A person has Prader-Willi syndrome and is unable to manage an appropriate volume of food intake due to this condition, so the right to access food may be restricted until the person develops self-management tools related to food.

• A person with dementia may be at risk when leaving the setting due to history of wandering and getting lost, so the right to depart is limited to leaving with appropriate support/assistance.

• A person with self-injurious behavior may be at risk when supports cannot quickly reach them, so the right to privacy with a locked door may be temporarily suspended until the behavior needs subside.
Examples of Inappropriate Restrictions

• Restricting rights or freedoms based upon “house rules” or for the convenience of the provider/caregiver
  • Visitor restrictions
  • Curfews
  • Set meal times without flexibility, options or individualization

• Making decisions for a participant without a health or safety reason
  • Choosing clothing or hairstyles
  • Restricting access to phones, computers, technology, alone-time, friends
  • Setting schedules and activity choices (without the person driving the decision)
Implementing Modifications

**Conversation about risks/needs**
- Identified in assessment
- Part of ISP planning
- Identified by team member

**Best way to address risk/needs**
- What has been tried?
- What is least restrictive?
- Does it require a modification?

**ISP Modification Addendum (coming soon)**
- Documentation
- Case manager approval
- Person/representative consent
What is HCBS evidence?

Examples of evidence to demonstrate compliance with the rule:

• Provider Policies/Procedures
• Participant Handbook
• Participant Agreement (blank or redacted)
• Participant Lease/Residential Agreement (blank or redacted)
• Photos and/or architectural renderings of physical space, with date and description
• Training requirements and schedules (staff and volunteers)
• Training curriculum and materials (staff and volunteers)
• Examples of program activity schedules
• Examples of program communications with participants and families
• Documentation from stakeholder committee involvement (meeting minutes, documentation of adoption of stakeholder recommendations)
• Redacted individual plans (IP)
• Redacted individual schedules
• Other ideas?

*The types of evidence offered by agencies (e.g., policies and procedures) is likely to vary from evidence offered by direct caregivers (e.g., redacted examples from individuals)*
### Examples of Evidence Options

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Agency evidence</th>
<th>Caregiver/Setting evidence</th>
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<tbody>
<tr>
<td>Is each participant free to control their own daily schedules and activities?</td>
<td>Policy manual, Participant handbook, Staff training requirements or curricula</td>
<td>Redacted participant schedules, Resident agreement, Staffing schedules, Transportation data, Participant examples (without protected health info)</td>
</tr>
<tr>
<td>Can each participant close and lock doors to their personal or private spaces in the setting, including their bedroom and bathroom, with only appropriate staff able to access keys?</td>
<td>Policy manual, Participant handbook, Staff training requirements or curricula</td>
<td>Photos, Redacted individual plan(s), Participant examples (without protected health info)</td>
</tr>
<tr>
<td>Is each participant allowed to have visitors at any time, without restrictions?</td>
<td>Policy manual, Participant handbook, Staff training requirements or curricula</td>
<td>Resident agreement, Redacted individual plan(s), Participant examples (without protected health info)</td>
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Timeline

- Provider Evidence Template and Instructions: January 6, 2021
- Provider Webinars: January 12 and January 14, 2021
- Provider “Open House” technical assistance (Zoom calls): Jan. 26, Jan. 28, Feb. 2
- Provider “Best Practices” Webinar: mid-February (Date TBD)
- Provider Agency Evidence Templates Completed, to DDD: March 15, 2021
- Remediation Activities: February - December 2021
- Full compliance by January 1, 2022
Timeline: Caregivers/Individual Homes

- Based upon when the home is due for annual certification or licensure (although HCBS compliance and evidence will NOT affect certification or licensing until final state rules are in effect, likely after 2021)

- Individual settings may provide the evidence template any time before the deadline

- Goal: all settings compliant by January 1, 2022!!

<table>
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<tr>
<th>If next annual certification or licensure review is:</th>
<th>Then the Single Setting Evidence Template is due no later than:</th>
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<td>March 2021</td>
<td>February 2021</td>
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Questions and Answers

• Please use Q&A feature to ask additional questions

• For additional information, please contact doh.dddcrb@doh.hawaii.gov

• Thank you!!