



## **DDD HCBS Community Integration Final Rule EVIDENCE TOOL**

What is it? What do providers need to do?



**NON-  
RESIDENTIAL  
SERVICES**

Hawaii DOH, Developmental Disabilities Division  
Webinar on HCBS Compliance Evidence Templates - NON-Residential  
January 12, 2021

# Today's Agenda

## HCBS Settings Final Rule Compliance: Developing Your Evidence Templates

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- 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

# 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

# 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*

# Community Integration: Multiple Perspectives



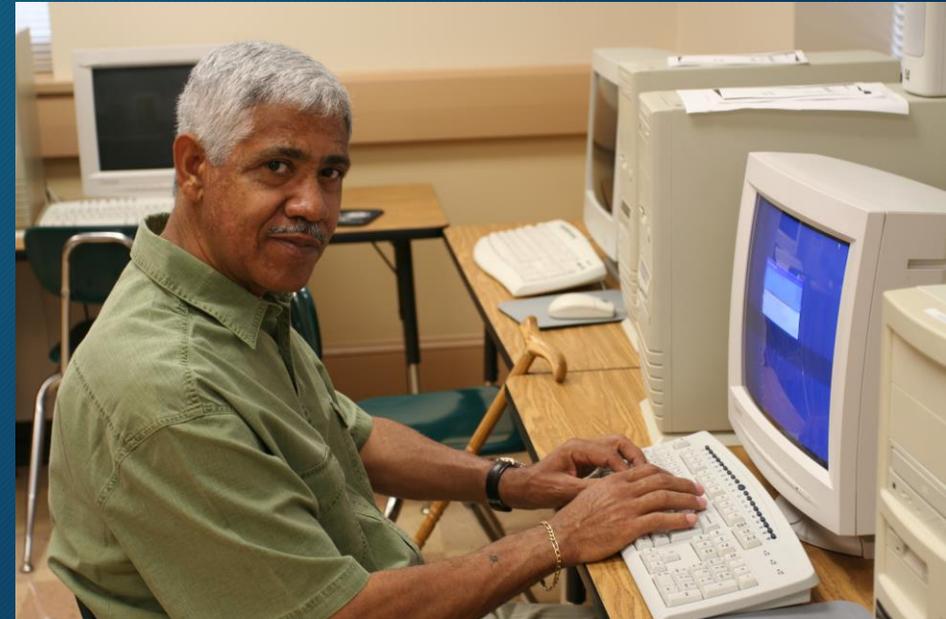
# Non-Residential Settings

- Individual Employment Supports in the greater community: Compliant, do not need to complete Evidence Template
- Adult Day Health Programs Settings: Most determined to have SOME necessary remediation, (category two) to become compliant - each individual setting needs to complete the Non-Residential Template



# 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: Non-Residential Single Setting

# The Evidence Template

- Tab One: Instructions

Instructions to complete the <i>HCBS Compliance Evidence Template: Non-Residential Provider</i> .
1. Complete the date, provider information and descriptions requested on the "Provider Info" Tab.
2. Providers enrolled with Medicaid as providers of services funded by the Waiver must complete one evidence template for <u>each</u> Adult Day Health (ADH) location they own, co-own, and/or operate.
3. Providers 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 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 the rule.
5. For every NO response the provider must offer an explanation, and propose a plan and timeline for meeting compliance. DDD staff will follow up with each provider individually regarding remediation efforts.
6. For every YES response, evidence must be provided to demonstrate compliance. Documentation that will be deemed acceptable includes, but is not limited to: <ul style="list-style-type: none"><li>○ Provider Policies/Procedures</li><li>○ Participant Handbook</li><li>○ Participant Agreement (blank or redacted)</li><li>○ Participant Lease/Residential Agreement (blank or redacted)</li><li>○ Photos and/or architectural renderings of physical space, with date and description</li><li>○ Training requirements and schedules (staff and volunteers)</li><li>○ Training curriculum and materials (staff and volunteers)</li></ul>

# The Evidence Template (part 2)

- Tab One: Instructions
- Tab Two: Provider Information

Date:	
Provider (Business) Name:	
Provider phone:	
Person completing template:	
Email:	
Address of Setting:	
Please describe how your organization has reviewed and updated (as needed) your policies and procedures to ensure compliance with the HCBS Settings rule, and when this occurred.	
Please describe (and/or provide documentation for) how your organization ensures that all staff and volunteers learn about and understand the requirements of the HCBS Setting rule.	

# The Evidence Template (part 3)

- **Tabs 3-8: Evidence Template Indicators**
  - Physical Location Characteristics

<b>HCBS Requirement - Physical Location: Home and community-based settings do not include nursing facilities, institutions for mental diseases, intermediate care facilities for individuals with intellectual disabilities, hospitals, settings that isolate participants from the broader community, or any other locations that have qualities of an institutional setting.</b>			
	Indicators	Yes or No	If YES, Evidence of Compliance with Rule If NO, Proposed Remediation to Address Compliance
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.		
2	The setting is NOT located in a building on the grounds of, or immediately adjacent to, a public institution.		
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.		
4	The setting is NOT surrounded by high walls		

# The Evidence Template (part 4)

- **Tabs 3-8: Evidence Template Indicators**
  - Community Integration

<b>HCBS Requirement 1: The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.</b>			
	<b>Indicators</b>	<b>YES or NO or Yes/Modif</b>	<b>If YES, Evidence of Compliance with Rule If NO, Proposed Remediation to Address Compliance</b>
1	Is each participant free to control their own daily schedules and activities?		
2	Can each participant come and go (with or without supports) from the setting at any time without restrictions?		
3	Is each participant supported to explore and pursue competitive integrated employment in the community if they choose to do so?		
	Is each participant supported to engage in off-site community activities based on their		

# The Evidence Template (part 5)

- **Tabs 3-8: Evidence Template Indicators**
  - Choice of Settings

<b>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.</b>			
	<b>Indicators</b>	<b>YES or NO or Yes/Modif</b>	<b>If YES, Evidence of Compliance with Rule If NO, Proposed Remediation to Address Compliance</b>
1	Is each participant supported to lead and actively participate in their person-centered planning process, including pre-planning and planning meetings?		
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		

# The Evidence Template (part 6)

- **Tabs 3-8: Evidence Template Indicators**
  - Rights of Privacy, Dignity, Respect, Freedom from Coercion and Restraint

<b>HCBS Requirement 3: The setting ensures an individual's right of privacy, dignity, and respect and freedom from coercion and restraint.</b>			
	<b>Indicators</b>	<b>YES or NO or Yes/Modif</b>	<b>If YES, Evidence of Compliance with Rule If NO, Proposed Remediation to Address Compliance</b>
1	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?		
2	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)?		
3	Is each participant supported to access information on resources like the Hawaii Disability Rights Center (HDRC) and Adult Protective Services (APS)?		
4	Does the setting assure that staff interact and communicate with each participant respectfully and		

# The Evidence Template (part 7)

- **Tabs 3-8: Evidence Template Indicators**
  - Supporting Initiative, Autonomy, and Independence

<b>HCBS Requirement 4: 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.</b>			
	<b>Indicators</b>	<b>YES or NO or Yes/Modif</b>	<b>If YES, Evidence of Compliance with Rule If NO, Proposed Remediation to Address Compliance</b>
1	Does each participant have individualized and variable schedules that change (daily or weekly) consistent with their individual preferences and needs?		
2	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?		
3	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.)?		
4	Are all areas of the setting physically accessible to all participants? (i.e. are participants able to maneuver through the hallway, doorway,		

# The Evidence Template (part 8)

- **Tabs 3-8: Evidence Template Indicators**
  - Choice of Services, Supports and Providers

<b>HCBS Requirement 5: The setting facilitates individual choice regarding services, supports, and who provides them.</b>			
	<b>Indicators</b>	<b>YES or NO or Yes/Modif</b>	<b>If YES, Evidence of Compliance with Rule If NO, Proposed Remediation to Address Compliance</b>
1	Is each participant asked about their needs and preferences, and are they provided support to understand their choices and make informed decisions?		
2	Is each participant supported to know how to request a change in service provider, setting, or support staff?		

# 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:



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

- Provider Policies/Procedures
- Participant Handbook
- Participant 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?

# Examples of Evidence Options

Indicator	Agency evidence	Setting evidence
<b>Is each participant free to control their own daily schedules and activities?</b>	Policy manual, Participant handbook, Staff training requirements or curricula	Redacted participant schedules, Staffing schedules, Transportation data, Participant examples (without protected health info)
<b>Does the setting reflect individual needs and preferences?</b>	Policy manual, Participant handbook, Staff training requirements or curricula	Photos, Redacted individual plan(s), Participant examples (without protected health info)
<b>Is each participant allowed to have visitors at any time, without restrictions?</b>	Policy manual, Participant handbook, Staff training requirements or curricula	Participant agreement, Redacted individual plan(s), Participant examples (without protected health info)

# 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 Evidence Templates Completed, to DDD: March 15, 2021
- Remediation Activities: February - December 2021
- Full compliance by January 1, 2022

# Questions and Answers

- Please use Q&A feature to ask additional questions
- For additional information, please contact [doh.dddcrb@doh.hawaii.gov](mailto:doh.dddcrb@doh.hawaii.gov)
- Thank you!!