



Date: December 9, 2022

To: Deaf Blind with Multiple Disabilities (DBMD) Program Providers

Subject: Information Letter No. 2022-59
Assessment of DBMD ALF Settings for Compliance with Federal Home and Community Based Services (HCBS) Settings Rule

The purpose of this information letter is to inform DBMD program providers of upcoming assessments of assisted living facility (ALF) settings for compliance with the federal Home and Community Based Services (HCBS) Settings Rule.

Federal HCBS Settings Rule

The federal regulation at [42 Code of Federal Regulations \(CFR\) §441.301\(c\)\(4\)](#), referred to as the HCBS Settings Rule, requires settings where Medicaid home and community-based services are delivered to have certain qualities that support individual choice, autonomy, and access to the community. The federal deadline for compliance with the HCBS Settings Rule is March 17, 2023. The HCBS Settings Rule applies to the DBMD waiver program.

The HCBS Settings Rule requires that a residential setting, including an ALF, have the following qualities:

- The setting provides opportunities for individuals to seek employment and work in competitive, integrated settings.
- The setting provides opportunities for individuals to engage in community life.
- The setting provides opportunities for individuals to control personal resources.
- The setting provides opportunities for individuals to receive services in the community.

- The setting is selected by the individual from among setting options, including non-disability specific settings, and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs and preferences.
- The setting ensures the individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.
- The setting optimizes, but does not regiment, the individual's initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.
- The setting facilitates individual choice regarding services and supports, and who provides them.
- The individual has privacy in their sleeping or living unit, including:
 - Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors;
 - An individual sharing units have a choice of roommates; and
 - The individual has the freedom to furnish and decorate their sleeping or living unit within the lease or residential agreement.
- The individual has the freedom and support to control their own schedules and activities and has access to food at any time.
- The individual is able to have visitors of their choosing at any time.
- The setting is physically accessible to the individual.

Assessment Process

HHSC Medicaid and CHIP Services (MCS) Provider Monitoring staff are conducting on-site assessments of all DBMD ALF settings. Assessments began in November 2022.

The assessment process includes:

- An on-site visit to the ALF setting to observe physical characteristics of the setting;
- An interview with an administrative staff person at the setting;
- An interview with a direct care staff person at the setting; and
- Review of the setting's policies, procedures, and any other relevant documentation.

If you have any questions about this letter or the assessment process, please send them to: Medicaid_HCBS@hhs.texas.gov.

Sincerely,

[signature on file]

Erica Brown, Deputy Director of Program Policy
Medicaid and CHIP Services