

# Colorado's Codification of the Federal HCBS Settings Final Rule

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# The Federal HCBS Settings Final Rule

- Issued in 2014
- Sets out criteria that differentiate home- and community-based settings from institutional settings
  - Basic rights
  - Additional rights
- Rights can be modified only on an individualized basis, with informed consent, not across the board
- Transition period ends in March 2023

# Basic Rights

**People have the right to live and receive HCBS in settings that:**

- Are integrated in and support full access to the community
- Are selected by them from among various options, including non-disability specific settings, & an option for a private unit
- Ensure privacy, dignity, respect, freedom from coercion & restraint
- Optimize individual initiative, autonomy, & independence
- Facilitate individual choice regarding services & supports, & who provides them

# Additional Rights

- Lease/residential agreement providing the same responsibilities & protections from eviction as other tenants (or comparable)
- Privacy in residential unit:
  - Can lock doors, choose roommates (if any), & furnish & decorate as desired
- Freedom and support to control schedules & activities
- Access to food at any time
- Visitors at any time
- Setting is physically accessible

# Rights Modifications

Must document criteria that include:

- The right to be modified
- Specific and individualized assessed need
- Positive interventions and supports already used
- Less intrusive methods that did not work
- Clear description of rights modification
- Plan for regular collection of data and review of ongoing need for modification
- Informed consent of the individual
- Assurance that interventions and supports will cause no harm to the individual

# Process to develop this rule

**Statewide Transition Plan**  
(Nov. 2014 - onward)

**Initial Trainings**  
(Sept. 2015 - May 2016)

**Initial Site Visits**  
(April 2016 - June 2017)

**Individual/Family/Advocate Survey**  
(Aug. 2015 - onward)

**Initial Workgroups**  
(Nov. 2015 - March 2016)

**Systemic Assessment Crosswalk**  
(May 2016 - onward)

**FAQs**  
(Jan. 2018 - onward)

**Further Trainings and Issuances**  
(Jan. 2019 - onward)

**Draft Rule** (Jan. 2020)

**Provider Transition Plan Platform**  
(Nov. 2018 - onward)

**Rights Modification Stakeholder Workgroup**  
(Dec. 2019 - June 2020)

**Open Meetings**  
(Aug. 2020 - Jan. 2021)



# Next steps

- Finish updating Systemic Assessment Crosswalk (roadmap for changes to existing regulations and waivers)
- Implement updated crosswalk with follow-up rulemaking and waiver amendments
- March 2023: All state legal authorities are compliant

All providers and settings are compliant

- Ongoing monitoring and enforcement

# Resources

- HCPF's [HCBS Settings Final Rule website](#) - contains links to everything below, and much more
- The federal [HCBS Settings Final Rule](#)
- Colorado's [Statewide Transition Plan \(STP\)](#)
- Colorado's [Systemic Assessment Crosswalk](#)
- [Informed Consent Template for Rights Modification](#)





# Questions?

# Contact Info

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# Thank you!