



December 10, 2024

DAL#: DACF #24-18
Subject: Home and Community Based
Services (HCBS) Final Rule
Compliance Assessment

Dear Adult Care Facility Administrators and Operators:

In 2014, the Centers for Medicare and Medicaid Services (CMS) published the Home and Community-Based Services Final Rule (HCBS Final Rule), effective March 17, 2014. The HCBS Final Rule is to ensure that publicly funded long-term services and supports (LTSS) are directed by the recipient to the greatest extent possible and in a manner consistent with the recipient's individualized preferences and goals. Among its provisions, the HCBS Final Rule established new standards for person-centered service planning (PCSP) settings in which recipients of LTSS live and/or receive services, and for mitigating conflicts that may occur if providers assess, plan, and deliver these LTSS.

Residents of an adult care facility (ACF) may receive Home and Community-Based Services due to a condition that requires personal care, nursing, physical therapy, or other supports beyond those offered by the facility. Accordingly, the HCBS Final Rule applies to all ACFs, including baseline Adult Homes and Enriched Housing Programs, such facilities with Assisted Living Program (ALP) licensure, and Assisted Living Residences (ALRs) with or without Special Needs Assisted Living Residence (SNALR) and Enhanced Assisted Living Residence (EALR) certifications. Information regarding the HCBS Final Rule and the New York State approved HCBS Statewide Transition Plan (STP) is located online at: https://www.health.ny.gov/health_care/medicaid/redesign/home_community_based_settings.htm.

The HCBS requirements at 42 CFR §§ 441.301(c)(4), 441.710(a)(1), and 441.530(a)(1) established a definition of HCBS based on individual experience and outcomes, rather than one based solely on a setting's location or physical characteristics. The purpose of these requirements is to maximize the opportunities for residents who receive Medicaid-funded HCBS under Sections 1915(c), 1915(i), and 1915(k) of the Social Security Act to receive such services in integrated settings and realize the benefits of community living, such as the opportunity to seek employment and work in competitive integrated settings.

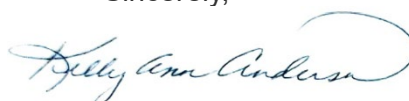
The Department is issuing a Compliance Assessment to all ACFs. This assessment is not only part of the State's remediation plan but may also assist ACFs in assessing compliance with recently established State regulations. Within each section of this assessment, there are questions that the ACF must address and provide supporting documentation within the document upload section in the survey. Support includes Residency or Admission Agreements (as well as any addenda), marketing material, policies and procedures, Resident and Family Orientation, Staff Training, and community outreach efforts, photographs or video, and other materials. Through this assessment, the ACF will be able to gauge its level of community

integration, support of individual autonomy and initiative, protection of confidentiality and person-centeredness, and compliance with other minimum aspects of the HCBS requirements that reflect the minimum standards for successful HCBS person-centered programming.

To access the 36-question Compliance Assessment please go to <https://apps.health.ny.gov/pubpal/builder/survey/home-and-community-based-setting>. **Be advised that you are not able to save and return to this survey.** Accordingly, please ensure you sufficiently plan to complete the survey in one sitting. The deadline for completion by ALPs is 14 business days from the date of this letter. For all other ACFs not licensed as ALPs, the deadline is 21 business days from the date of this letter.

If you have any questions, please email acfhcbs@health.ny.gov. Thank you for your anticipated cooperation.

Sincerely,

A handwritten signature in blue ink that reads "Kelly Ann Anderson". The signature is fluid and cursive, with a large loop at the end.

KellyAnn Anderson, Director
Division of Adult Care Facility
and Assisted Living Surveillance

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