



Home & Community Based Services Setting Rule



Department of Medical Assistance Services
and
Department of Behavioral Health and Developmental Services

Housekeeping Tips

- Microphones are muted because of the size of the training.
- Enter all questions into the chat.
- Q&A document will be posted to the toolkit.
- Any questions we are unable to answer will be included in the Q&A document.
- This training is being recorded.

Purpose

The purpose of this training is to discuss the specific role of support coordination as Virginia works towards full compliance with the HCBS Final Rule.

Agenda

- HCBS Goal
- SC Role
- HCBS Setting Validations and Audit Authority
- Review of HCBS protections
- Provider requirements, ISP requirements, and service option requirements.
- Review of HCBS audit progress
- Common areas for remediation
- Implications of non-compliance

- Next week we will focus on residential specific modifications and ongoing monitoring!

“The Goal”

Individuals receiving Medicaid home and community based services must have every opportunity to live with the same rights, freedoms, and degree of self-determination, and have the opportunity to integrate within their community, as anyone not receiving Medicaid home and community based services. HCBS members must have the opportunity to live as freely and independently as you and me.

Home and Community Based Services

The Home and Community-Based Services (HCBS) settings regulations (previously known as the “Final Rule”) was published in the Federal Register on 1/16/14, and became effective on 3/17/14. States must reach full compliance with the Final Rule in order to keep the federal reimbursement for HCBS services.

Virginia's Vision

- ❑ Our vision centers on a Virginia where individuals of all ages and abilities have the supports needed to enjoy the rights of life, liberty and the pursuit of happiness and the opportunity to have a good life.
- ❑ This vision includes that all people have the opportunities and supports needed to live a good life in their own homes and communities and that a good life is best led by the voice of the individual.

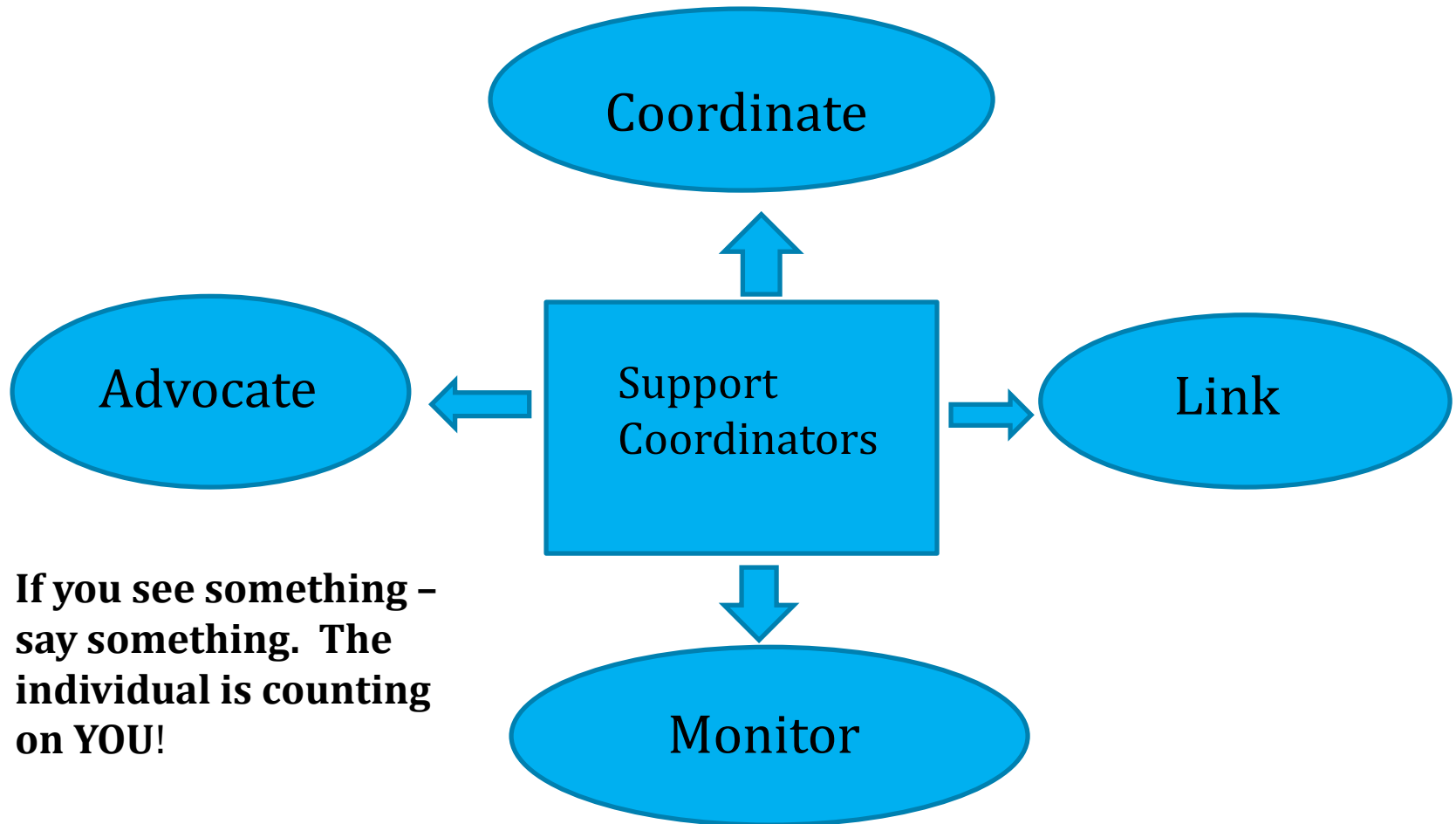
Support Coordinator Role

- ❑ Support Coordination/Case Management is the core service that Virginians with developmental disabilities use to help navigate Virginia's publicly funded system of services.
- ❑ As an SC, YOU are critical to all dimensions of the DD services system.
- ❑ Strengthening the understanding of your role is essential to assuring effective and accountable services within the VA DD system.

Support Coordinator Role

- ❑ You, as SC have a huge responsibility as the front line person working with both the individual and provider. You are tasked with planning and supporting a person in achieving their own “good life” as well as ongoing monitoring to ensure that the individual achieves/maintains this good life.
- ❑ You also have the responsibility to ensure that a person’s “good life” is understood from the perspective of the person supported, communicated to the provider and all who support the individual, AND demonstrated in the way services are delivered in the setting.

Support Coordinator Role



**If you see something –
say something. The
individual is counting
on YOU!**

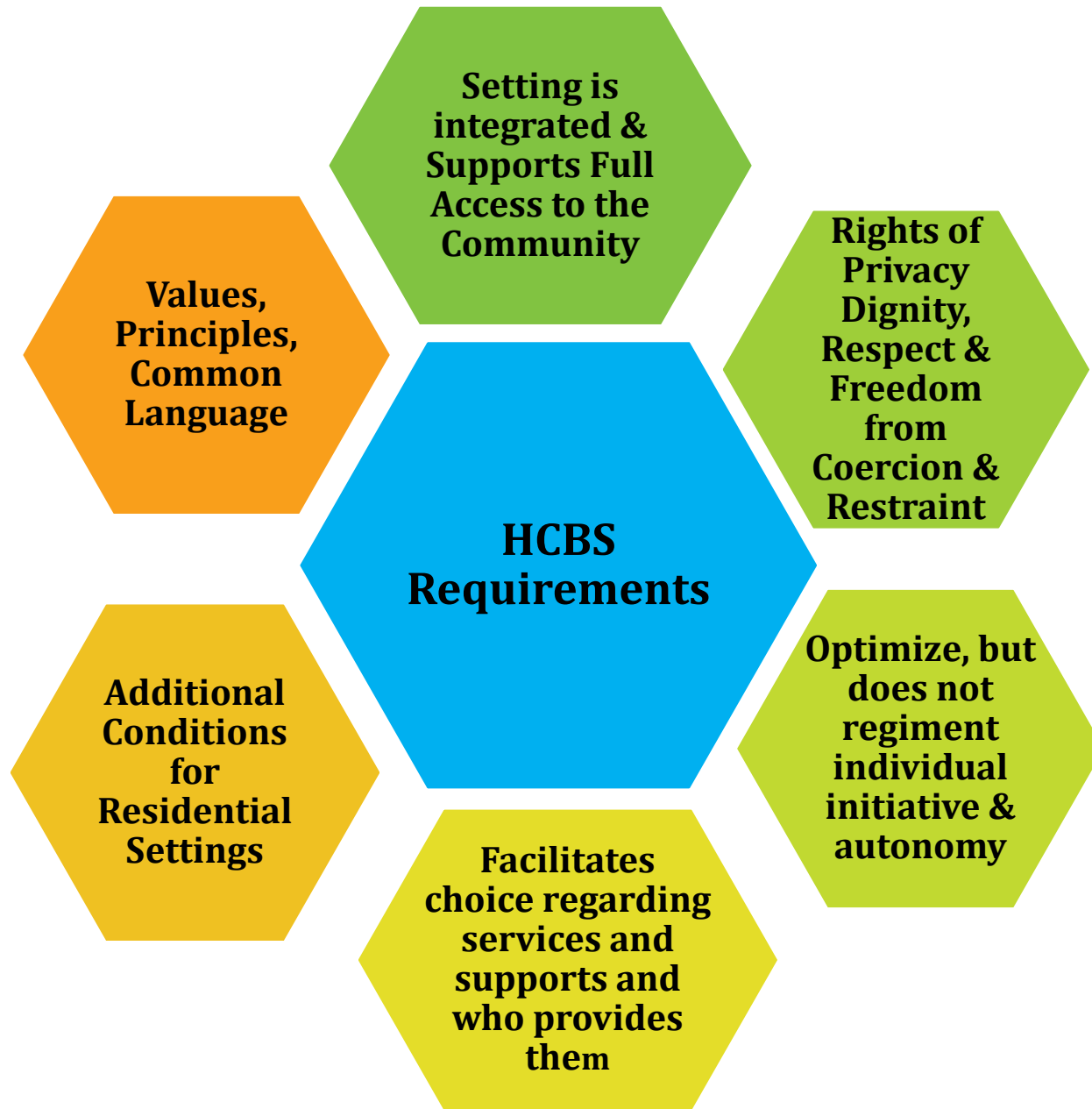
VA HCBS Setting Validations

- Providers were first determined to be in “organizational compliance”
- Individual setting validations started in 2020
- ALL provider settings are being reviewed for the following services: Group Home, Group Day, Group Supported Employment, Sponsored Residential, Supported Living)
- Multiple review types
 - OSR (onsite/virtual reviews)
 - Desk Audits
 - HSAG reviews

Audit Authority

- DMAS and DBHDS have the authority to conduct these reviews pursuant to:
 1. Virginia's Statewide Transition Plan that received final approval from CMS
 2. Virginia's Community Waiver Regulations (Administrative Code)

DD waiver regulations (12VAC30 122-120) "13. Agree to furnish information and record documentation on request and in the form requested to DMAS, DBHDS, the Attorney General of Virginia or his authorized representatives, federal personnel (e.g., Office of the Inspector General), and the State Medicaid Fraud Control Unit. The Commonwealth's right of access to provider premises and records shall survive any termination of the provider participation agreement."



HCBS Requirements: The Basics:

- Be integrated and support access to the greater community;
- Provide opportunities to seek employment and work in competitive integrated settings;
- Facilitate individual choice regarding services & supports and who provides them;
- Ensure an individual's rights of privacy, dignity, respect, and freedom from coercion and restraint;
- Be selected by the individual from among setting options, including non-disability specific settings;
- Participate in the person-centered planning process.

HCBS Requirements: Support Coordinator Essentials

- Provide opportunities to seek employment and work in competitive integrated settings;
- Facilitate individual choice regarding services & supports and who provides them;
- Be selected by the individual from among setting options, including non-disability specific settings.

Additional Rights in HCBS Residential Locations:

- Individuals should have a lease or other legally enforceable agreement;
- Privacy in bedroom with lockable doors;
- Choice of roommates;
- Freedom to furnish and decorate the unit;
- Freedom and support to control schedules and activities;
- Access to food any time;
- Right to have visitors at any time;
- Have an accessible environment.

The Foundation of HCBS: Presumed Competence

Presumed competence is a **strengths-based approach that assumes people with disabilities have the ability to learn, think and understand.**

This includes the ability to make choices (maybe even choices that their supports, natural and paid, disagree with), determine their own goals and be the person in charge of their life path.

Lease/ Residency Agreement

- Individuals should have a lease or other legally enforceable agreement.
- Follow the VA Landlord Tenant Act.
- Address eviction procedures.
- Not be in conflict with HCBS agency policies.
- Virginia Department of Housing and Community Development

Privacy and Locks

- Privacy in bedroom and lockable doors.
- Doors should have locks with keys, but key pad locks are acceptable if an individual is able to use a key pad lock.
- Staff and other individuals knock before entering AND wait for permission to access.
- Doors can be closed when the individual is in their room. An individual can use the phone, computer, etc. in the privacy of their room with the door closed.

Bedrooms

- If a room is shared, the individuals must choose with whom they share the room.
- Freedom to furnish and decorate the unit. Examples include: bedroom paint color, bedspreads, décor, pictures, furniture, TVs, technology, etc.

Bedrooms

- The individual should be asked for their preference in decorating the room.
- If the individual shows no specific interest in decorations, then the residential provider should strive to decorate the individual's room in a manner that fits the individual's personality/interests and not only the interests or preferences of the provider, family, etc.

Schedules

- Individuals should be able to wake up and sleep when they want.
- Choose to stay home or go on outings.
- Have the option to use public transportation instead of the van.
- Participate in preferred activities in and out of the home.
- Freedom and support to control schedules and activities.

Access to Food

- Have access to food at any time.
- Eat what, when they want and where they want.
- Individuals should have some input in menu choices and have the ability to choose to eat something different than what is on the menu.
- Individuals should have the choice to eat earlier or later than established meal times, and have a snack when they want.

Visitors

- Right to have visitors at any time.
- Ability to have overnight visitors.
- Visitors are not limited to family.
- Visitors can be friends, co-workers, and significant others.
- Visitors do not need to be pre-screened or have a background check.

Access

- Have a key to the entrance door of your home.
- Right to an accessible home. Ability to access all common areas, bedroom and bathroom. Accessible entrances and exits of the home.
- As a reminder, the right to an accessible environment CAN NOT be modified!

Individuals can...

- Access their community with the same opportunity as people without disabilities;
- Be employed, which increases integration and enables the pursuit of interests through increased income;
- Routinely spend time with friends, family, and others not paid to support them;
- Use support in maintaining contact with friends and family members (phone, email, snail mail, etc.)
- Have dependable transportation options;
- Have choice of healthcare providers and access to supports and activities that promote health, wellness, and safety.

ISP Requirements

Person Centered Individual Support Plans (PCISP) for individuals must reflect the services and supports that are important for the individuals' identified needs and preferences. An individual's written PCISP must:

- Reflect that the setting was the individual's choice and is integrated in, and supportive of full access of the individual to the greater community.
- Reflect the individual's strengths and preferences.
- Reflect clinical and support needs that have been identified through a functional needs assessment.
- Include individually identified desired outcomes and support activities.

ISP Requirements (2)

- Reflect the (paid/unpaid) services/supports, and providers of such services/supports that will assist the individual to achieve identified goals.
- Reflect risk assessment, mitigation, and backup planning.
- Be understandable (e.g. linguistically, culturally, and disability considerate) to both the individual receiving HCBS and the individual's support system.
- Identify the individual and/or entity responsible for monitoring the PCSP.
- With the written, informed consent of the individual, be finalized, agreed to, and signed by all individuals/providers responsible for implementation of the PCSP.
- Be distributed to the individual and others involved in the PCSP.
- Prevent service duplication and/or the provision of unnecessary services/supports

Status of HCBS Validations

- The state has a total of 4,357 settings to review.
- As of May 31, 2022, 1,465 reviews have been initiated by the state. This means that these settings have been contacted by the state and are in the audit process.
- Total progress: 33.62%

Common Remediation Areas for Providers

- HCBS rights not being understood or distinguished from Human Rights
- Documentation not showing community participation, choice, autonomy and independence
- Staff not understanding the definition of coercion, seclusion and/or restraints
- Individuals not having keys to bedroom doors or front door of home
- Modifications to HCBS rights not being documented in Part V
- Provider lease agreements/residential agreements not addressing reason for eviction
- Individual inability to access or spend own money
- Providers not understanding TRUE Community engagement
- Activities not individualized, supports happening in large groups
- Providers not supporting/encouraging family involvement
- Excessive signage in the person's home

SC Role in Provider Validation Process: How You Can Help

- If you are contacted by a member of the state team, you can answer questions about the individual's experience in the setting.
- You can provide helpful information about important changes in the setting following FTF visits.
- You can refer questions about the setting validations from providers or family members to the statewide team contact.

Non-Compliance

If a provider is unable to reach full compliance, their provider participation agreement will be removed.* This will directly impact the individuals receiving services. As a Support Coordinator you must:

- Contact the individual within 10 days of receiving notification of provider non-compliance. The CSB Executive Director will receive a letter from DMAS when a provider is deemed non-compliant.
- Support the individual in finding alternate services and providers. Remember, this includes non-disability specific settings!
- Support ISP revisions, service authorization and RST submissions, and all other documentation associated with ending services or moving providers.

****Please refer to pages 42-44 of the Statewide Transition Plan for more details!***

Full Compliance

- Once a setting has achieved full compliance, a letter will be sent to the provider.
- **Reaching HCBS compliance is not a one-time achievement.** A provider must maintain their compliance status which will be monitored on an ongoing basis through:
 - The DBHDS Office of Licensing
 - The Office of Human Rights
 - DMAS QMR
 - Support Coordination and other quality monitoring reviews.
- **If a setting can't reach full compliance, the provider participation agreement will be reviewed.** Possible consequences include:
 - suspension of billing, and
 - removal of the agreement.

HCBS Resources

Statewide Waiver Transition Plan for
review:

http://www.dmas.virginia.gov/Content_pages/HCBS.aspx

HCBS Resources



The Toolkit can be located on the DMAS Website:
<https://www.dmas.virginia.gov/for-providers/long-term-care/waivers/home-and-community-based-services-toolkit/>

You may also reach out directly to DMAS
hcbscomments@dmas.virginia.gov

HCBS Resource

Additional questions can be sent to your regional CRC

Region 1 - Todd Cramer

todd.cramer@dbhds.Virginia.gov

Region 2 – Nedria Ames

nedria.ames@dbhds.virginia.gov

Region 3 - Todd Cramer

todd.cramer@dbhds.virginia.gov

Region 4 – Ronnitta Clements

ronnitta.clements@dbhds.virginia.gov

Region 5 – Michelle Guziewicz

michelle.guziewicz@dbhds.virginia.gov

Training Part 2:

- 6/29- 2pm
- 6/30- 10am

ANY

QUESTIONS?