



Home and Community-Based Services Provider Compliance Funding Guidelines Fiscal Year 2018-19



Department of Developmental Services

October 2018

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Background

In January 2014, the federal Centers for Medicare and Medicaid Services issued final regulations, or rules, for Home and Community-Based Services (HCBS)¹. The rules require that HCBS programs funded through Medicaid (called Medi-Cal in California) provide individuals with disabilities full access to the benefits of community living and offer services and supports in settings that are integrated in the community. This could include opportunities to seek employment in competitive and integrated settings, control personal resources, and engage in the community to the same degree as individuals who do not receive regional center services. The HCBS rules focus on the nature and quality of individuals' experiences and not just the settings where the services are delivered.

In recognition that some service providers need to take steps towards modifying their services to come into compliance with the HCBS rules by March 2022, the 2018 Budget Act (SB 840, Chapter 29, Budget Act 2018) contains \$15 million to fund necessary changes.

Provider Concepts

Service providers are invited to apply for funds through regional centers and all submitted concepts will be forwarded to the Department of Developmental Services (Department) as they are received. Regional centers are required to make recommendations for funding, although final approval will be made by the Department. Projects that require multiple years to complete, additional funding, or result in meeting some, but not all, of the HCBS rules, will be considered.

The HCBS rules represent a significant, system-wide change to the way services are delivered. Given the broad scope of the rules, providers are encouraged to submit concepts that offer a unique and innovative path to compliance. Funding may be used for more creative service delivery options, and is intended to help a program achieve compliance, opposed to expanding an existing service. There should be a clear link between what is being requested and the federal requirement currently out of compliance. Concepts should demonstrate how the requested change in service delivery will impact individuals in offering more choices or options and opportunities in the community.

Examples of previously funded concepts:

- Outreach and information regarding the HCBS rules for consumers and members of their support teams.
- Supporting consumers on a more individualized basis to promote community integration and employment.
- Prioritizing the preferences of consumers and utilizing consumer feedback in the development of the concept.
- Train-the-trainer certification in person-centered planning/thinking and training regarding the HCBS rules.

¹ <https://www.medicaid.gov/medicaid/hcbs/index.html>

Eligible Providers

Providers of services in settings identified in the California Statewide Transition Plan (Attachment A) that are not in compliance with the HCBS rules may be eligible for funding.

Application Process

There are multiple phases and timelines associated with the funding application process. Concepts submitted to regional centers after the date noted below may be ineligible for consideration.

1. Providers must submit completed concepts to regional centers by December 14, 2018.
2. Regional centers must submit completed concepts and evaluations to the Department by January 18, 2019.
3. The Department will review the concepts and notify regional centers of selected concepts by March 15, 2019.
4. Regional centers and providers whose concepts were selected may enter into a contract agreement.

Provider Concept Submission by December 14, 2018

Service providers need to submit a completed concept form (Attachment C) to the designated contact person for each regional center (Attachment B) to be considered for initial approval. The concept form should include:

- A completed provider compliance evaluation of the vendored setting, service or support that identifies and describes which HCBS setting requirements are not being met;
- Vendor name, vendor number, primary regional center, service type/code, and number of consumers being served by the vendor;
- Whether the provider was a past recipient of HCBS funding;
- A brief description of the service/setting, including barriers to compliance with the HCBS rules;
- Identify which HCBS federal requirements are currently out of compliance that the concept will address;
- A narrative/description of the concept, including justification for the funding request and explanation of how compliance would be achieved through concept implementation;
- A description of how the vendor involved the individuals it provides services to in the concept development process;
- Whether the concept addresses unmet service needs or service disparities;
- An estimated budget and timeline for the project identifying all major costs;
- The full amount requested; and,
- A plan for sustainability moving forward.

Prior to concept submission, regional centers and providers are encouraged to discuss the details of the funding process, as well as the options approved providers will have for submitting invoices and claiming for project funds through their regional center.

Regional Center Submission to the Department by January 18, 2019

Regional centers must submit all completed concepts and evaluations to the following email address, along with funding recommendations and the basis for the recommendations: HCBSregs@dds.ca.gov.

Regional centers should send concepts to the Department as they are received from providers. For concept forms that are incomplete, the regional center should work with the vendor to submit all required information. Please note, for providers that operate programs with several vendor numbers, one concept form and evaluation form may be submitted, provided that the plan applies to all vendor numbers listed. Should the regional center require further time to review, additional time may be requested from the Department. The Department may request supplementary information from providers or regional centers, as necessary.

In reviewing concepts, the Department will use a merit-based process so that each concept receives a fair, equitable, and objective review. The concept review process includes, but is not limited to, consideration of:

- Concept completeness;
- The link between the request and the federal requirement currently out of compliance;
- Recommendations made by the regional center;
- Consideration given to providers who did not receive funding in previous fiscal years;
- Concept creativity or uniqueness;
- Expansion upon current compliance efforts;
- The provider's person-centered approach in developing the concept;
- Unmet needs or disparities;
- Plan for sustainability;
- Estimated budget and timeline of the proposed plan;
- Availability of generic or other services in that geographic location;
- The ability of the concept to result in greater compliance; and,
- Participants aging in place.

Notification of Selected Concepts by March 15, 2019

The Department will notify regional centers of the concepts selected for funding.

Contract Development

Concepts selected by the Department will require a contract agreement between the regional center and the service provider, which will include but will not be limited to, the following:

- Details regarding the project, including specifics on how the funding will be used to increase compliance with the federal requirements;
- Details regarding how consumer input will be used in the development and implementation of the project;
- A detailed budget for the project;
- A project timeline identifying key milestones;
- Qualitative and quantitative measures to determine progress toward compliance with the federal requirements; and,
- A requirement for quarterly reporting to the regional center on progress toward implementation of the project, including progress related to key milestones and progress toward compliance with the federal requirements.

Questions

Please direct any questions to HCBSregs@dds.ca.gov.

**Home and Community-Based Services (HCBS) Rules
SETTINGS/SERVICES IDENTIFIED IN THE STATEWIDE TRANSITION PLAN**

- Activity Center
- Adult Day Care Center
- Adult Day Care Facility
- Adult Day Program
- Adult Day Support Center
- Adult Development Center
- Adult Family Home
- Adult Residential Facility
- Adult Residential Facility for Persons with Special Health Care Needs
- Behavior Management Program
- Certified Family Home
- Child Day Care Center
- Child Day Care Facility
- Community Activities Support Service
- Community Integration Training Program
- Community-Based Training Provider
- Family Child Care Home
- Family Teaching Home
- Foster Family Home
- Group Home
- Residential Care Facility for the Elderly
- Small Family Home
- Socialization Training Program
- Supported Employment (Group Services)
- Work Activity Program

Home and Community-Based Services (HCBS) Rules HCBS COMPLIANCE FUNDING REGIONAL CENTER CONTACT INFORMATION

Regional Center	Contact Person	Email Address
Alta California Regional Center	Andrew Ponce	aponce@altaregional.org
Central Valley Regional Center	Tamara Salem	tsalem@cvrc.org
Eastern Los Angeles Regional Center	Maribel Garcia	margarcia@elarc.org
Frank D. Lanterman Regional Center	Sonia Garibay	sgaribay@lanterman.org
Far Northern Regional Center	Julie Jones	jjones@farnorthernrc.org
Golden Gate Regional Center	Kate Russell	krussell@ggrc.org
Harbor Regional Center	Rose Samaniego	rose.samaniego@harborrc.org
Inland Regional Center	Dalila Balderas	dbalderas@inlandrc.org
Kern Regional Center	Armondo Cordova Cherylle Mallinson	acordova@kernrc.org cmallinson@kernrc.org
North Bay Regional Center	Ashley McConnell	ashleym@nbrc.net
North Los Angeles County Regional Center	Evelyn McOmie	emcomie@nlacrc.org
Regional Center of the East Bay	Fructuoso Menchavez	fmenchavez@rceb.org
Regional Center of Orange County	Arturo Cazares	acazares@rcocdd.com
Redwood Coast Regional Center	Cindy Claus-John	cclaus-john@redwoodcoastrc.org
San Andreas Regional Center	Ann Sieber	asieber@sarc.org
South Central Los Angeles Regional Center	Evelyn Galindo	evelyn@scarc.org
San Diego Regional Center	Carol Campbell	carol.campbell@sdrc.org
San Gabriel/Pomona Regional Center	Lourdes Sanchez	lsanchez@sgprc.org
Tri-Counties Regional Center	Diva Johnson	djohnson@tri-counties.org
Valley Mountain Regional Center	Patricia Green	pgreen@vmrc.net
Westside Regional Center	Pamela Arturi	pamelaa@westsiderc.org

Home and Community-Based Services (HCBS) Rules CONCEPT FORM

The Home and Community-Based Services (HCBS) rules ensure that people with disabilities have full access to, and enjoy the benefits of, community living through long-term services and supports in the most integrated settings of their choosing. In order to assist in determining eligibility for compliance funding, providers must complete this evaluation. Both “Yes” and “No” answers require an explanation. A “No” response *could* mean a service setting is out of compliance with the HCBS rules and is potentially eligible for funding to make necessary modifications. Once this evaluation is completed, it should act as a guide for filling out the provider compliance funding concept, which is required for any provider to be eligible for compliance funding. **Completion of this evaluation is for the sole purpose of applying for compliance funding and does not take the place of future provider assessments that the Department may require to determine provider compliance with the HCBS settings rules. Only providers requesting compliance funding need to complete this evaluation.**

Federal Requirements #1-5 apply to providers of all services, including residential and non-residential settings. Federal Requirements #6-10 are additional requirements that apply only to provider-owned or controlled residential settings.

The column labeled “Guidance” contains a series of questions intended to help identify compliance or non-compliance with each requirement as it relates to the HCBS rules. While responses to these questions can help in the determination of whether or not a particular requirement is met, these responses may not be the sole factor in this determination.

More information on the HCBS rules and this form can be found at www.dds.ca.gov/HCBS.

Questions may be directed to HCBSregs@dds.ca.gov.

Date(s) of Evaluation:	Completed by:
Vendor Name, Address, Contact:	
Vendor Number:	
Service Type and Code:	

Home and Community-Based Services (HCBS) Rules CONCEPT FORM

<p><u>Federal Requirement #1:</u> <i>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.</i></p>	<p><u>Guidance:</u></p> <ul style="list-style-type: none"> • Do individuals receive services in the community based on their needs, preferences and abilities? • Does the individual participate in outings and activities in the community as part of his or her plan for services? • If an individual wants to seek paid employment, does the home staff refer the individual to the appropriate community agency/resource? • Do individuals have the option to control their personal resources, as appropriate?
<p>Does the service and/or program meet this requirement? <input type="checkbox"/> Yes <input type="checkbox"/> No Please explain:</p>	
<p><u>Federal Requirement #2:</u> <i>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, preferences, and, for residential settings, resources available for room and board.</i></p>	<p><u>Guidance:</u></p> <ul style="list-style-type: none"> • Does the provider have a current regional center Individual Program Plan (IPP) on file for all individuals? • Does each individuals' IPP document the different setting options that were considered prior to selecting this setting?
<p>Does the service and/or program meet this requirement? <input type="checkbox"/> Yes <input type="checkbox"/> No Please explain:</p>	
<p><u>Federal Requirement #3:</u> <i>Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.</i></p>	<p><u>Guidance:</u></p> <ul style="list-style-type: none"> • Does the provider inform individuals, in a manner they can understand, of their rights to privacy, dignity, respect, and freedom from coercion and restraint? • Does the provider communicate, both verbal and written, in a manner that ensures privacy and confidentiality?

**Home and Community-Based Services (HCBS) Rules
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	<ul style="list-style-type: none"> Do staff communicate with individuals based on their needs and preferences, including alternative methods of communication where needed (e.g., assistive technology, Braille, large font print, sign language, participants' language, etc.)?
<p>Does the service and/or program meet this requirement? <input type="checkbox"/> Yes <input type="checkbox"/> No Please explain:</p>	
<p><u>Federal Requirement #4:</u> <i>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.</i></p>	<p><u>Guidance:</u></p> <ul style="list-style-type: none"> Does the provider offer daily activities that are based on the individuals' needs and preferences? Does the provider structure their support so that the individual is able to interact with individuals they choose to interact with, both at home and in community settings? Does the provider structure their support so that the individual is able to participate in activities that interest them and correspond with their IPP goals?
<p>Does the service and/or program meet this requirement? <input type="checkbox"/> Yes <input type="checkbox"/> No Please explain:</p>	
<p><u>Federal Requirement #5:</u> <i>Facilitates individual choice regarding services and supports, and who provides them.</i></p>	<p><u>Guidance:</u></p> <ul style="list-style-type: none"> Does the provider support individuals in choosing which staff provide their care to the extent that alternative staff are available? Do individuals have opportunities to modify their services and/or voice their concerns outside of the scheduled review of services?
<p>Does the service and/or program meet this requirement? <input type="checkbox"/> Yes <input type="checkbox"/> No Please explain:</p>	

Home and Community-Based Services (HCBS) Rules CONCEPT FORM

Only providers of services in **provider-owned or controlled residential settings** need to complete the remainder of this evaluation. In **provider-owned or controlled residential settings**, in addition to the above requirements, the following requirements must also be met:

<p><u>Federal Requirement #6:</u> <i>The unit or dwelling is a specific physical place that can be owned, rented or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city or other designated entity. For settings in which landlord/tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each participant and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.</i></p>	<p><u>Guidance:</u></p> <ul style="list-style-type: none"> • As applicable, does each individual have a lease, residency agreement, admission agreement, or other form of written residency agreement? • Are individuals informed about how to relocate and request new housing?
<p>Does the service and/or program meet this requirement? <input type="checkbox"/> Yes <input type="checkbox"/> No Please explain:</p>	
<p><u>Federal Requirement #7:</u> <i>Each individual has privacy in his/her sleeping or living unit: Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors as needed. Individuals sharing units have a choice of roommates in that setting. Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.</i></p>	<p><u>Guidance:</u></p> <ul style="list-style-type: none"> • Do individuals have a choice regarding roommates or private accommodations? • Do individuals have the option of furnishing and decorating their sleeping or living units with their own personal items, in a manner that is based on their preferences? • Do individuals have the ability to lock their bedroom doors when they choose?
<p>Does the service and/or program meet this requirement? <input type="checkbox"/> Yes <input type="checkbox"/> No Please explain:</p>	

**Home and Community-Based Services (HCBS) Rules
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<p><u>Federal Requirement #8:</u> <i>Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time.</i></p>	<p><u>Guidance:</u></p> <ul style="list-style-type: none"> • Do individuals have access to food at any time? • Does the home allow individuals to set their own daily schedules? • Do individuals have full access to typical facilities in a home such as a kitchen, dining area, laundry, and comfortable seating in shared areas?
<p>Does the service and/or program meet this requirement? <input type="checkbox"/> Yes <input type="checkbox"/> No Please explain:</p>	
<p><u>Federal Requirement #9:</u> <i>Individuals are able to have visitors of their choosing at any time.</i></p>	<p><u>Guidance:</u></p> <ul style="list-style-type: none"> • Are visitors welcome to visit the home at any time? • Can individuals go with visitors outside the home; such as for a meal or shopping, or for a longer visit outside the home, such as for holidays or weekends?
<p>Does the service and/or program meet this requirement? <input type="checkbox"/> Yes <input type="checkbox"/> No Please explain:</p>	
<p><u>Federal Requirement #10:</u> <i>The setting is physically accessible to the individual.</i></p>	<p><u>Guidance:</u></p> <ul style="list-style-type: none"> • Do individuals have the freedom to move about inside and outside the home or are they primarily restricted to one room or area? • Are grab bars, seats in bathrooms, ramps for wheelchairs, etc., available so that individuals who need those supports can move about the setting as they choose? • Are appliances and furniture accessible to every individual?
<p>Does the service and/or program meet this requirement? <input type="checkbox"/> Yes <input type="checkbox"/> No Please explain:</p>	

**Home and Community-Based Services (HCBS) Rules
CONCEPT FORM**

CONTACT INFORMATION

Contact Name: _____
Contact Phone Number: _____
Email Address: _____

ACKNOWLEDGEMENT

By checking the box below, I acknowledge that completion of this evaluation is for the sole purpose of applying for compliance funding and does not take the place of future provider assessments that the Department may require to determine provider compliance with the HCBS settings rules.

I AGREE

Existing regional center vendors may receive funding to make changes to service settings and/or programs to help them come into compliance with the HCBS rules. To be considered for funding, vendors must complete and submit this form and the provider compliance evaluation form as one packet, to the regional center with which it has primary vendorization.

Instructions:

- The concept form on the next page must be used, may not exceed three pages, and must be kept in Arial 12-point font. Submit the form in Microsoft Word.
- For providers that operate programs with several vendor numbers, one evaluation and concept form may be submitted, provided that the plan applies to all vendor numbers listed.
- The results of the evaluation should be clearly laid out in the section referring to identification of federal requirements that are currently out of compliance, which the concept will address.
- Describe how implementation of the concept would achieve compliance, including anticipated outcomes.
- Concepts should be developed with a person-centered approach, with proposed changes/activities focused on the needs and preferences of those who receive services.
- Explain how funding will lead to sustained results of compliance.
- The estimated budget and timeline need not be detailed at this point, but must include all major costs and benchmarks.

Examples of previously funded concepts:

- Identified the need as well as proposed a plan to provide outreach and information regarding the HCBS rules to consumers and members of their support teams.
- Discussed the need for additional funds in order to effectively support consumers on a more individualized basis in overcoming barriers to community integration and employment, as appropriate.
- Prioritized the preferences of consumers and utilized consumer feedback in the development of the concept.
- Train-the-trainer certification in person-centered planning/thinking and training regarding the HCBS rules.

More information on the HCBS rules and this form can be found at www.dds.ca.gov/HCBS.

Home and Community-Based Services (HCBS) Rules CONCEPT FORM

Vendor name	
Vendor number(s)	
Primary regional center	
Service type(s)	
Service code(s)	
Number of consumers currently serving and current staff to consumer ratio.	
Have you or the organization you work with been a past recipient of HCBS Funding?	
Please provide a brief description of the service/ setting that includes what a typical day consists of and how services are currently provided; include barriers to compliance with the HCBS rules.	
Identify which HCBS federal requirements this concept addresses that are currently out of compliance.	
Narrative/description of the concept; include justification for the funding request and explain how the concept would achieve proposed outcomes.	
Please describe your person-centered approach ² in the concept development process; how did you involve the individuals for whom you provide services?	

² A person-centered approach emphasizes what is important to the individual who receives services and focuses on personal preferences, satisfaction, and choice of supports in accessing the full benefits of community living. For more information regarding person-centered practices, please visit www.nasdds.org/resource-library/person-centered-practices.

**Home and Community-Based Services (HCBS) Rules
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Does the concept address unmet service needs or service disparities? If so, how?	
Estimated budget and timeline; identify all major costs and benchmarks — attachments are acceptable.	
Total requested amount.	\$
What is your plan for sustaining the benefits, value, and success of your project at the conclusion of 2018-19 HCBS Funding?	