

Section	SUB SECTION	Question #	Question	Guidance/Additional Information
CORE	Serv Del Doc	5.008^*	Are waiver services delivered in a manner which supports each individual's full participation in the greater community, considering their individual choices, preferences, and needs? 5123-9-02 42 CFR 441.301 (c)(4)(i) 42 CFR 441.710 (a)(1)(I)	<ul style="list-style-type: none"> Are opportunities to access inclusive settings in the community being offered (refusals should be documented) Are the activities meaningful to the individual, and similar to those without disabilities? Ask providers and individuals how activities are selected and scheduled. If any part of the settings rule is not met due to modifications needed for a specific person, those specific qualities and conditions must be supported with a specific assessed need and justified in the person-centered service plan.
	Day Services	New Question	Is the non-residential waiver service setting integrated in and does it support access to the greater community? 42 CFR 441.301 (c)(4)(i)	<p>There is opportunity for Access. The setting/provider <u>has policies and practices in place that facilitates give individuals having opportunities to opportunities to:</u></p> <ul style="list-style-type: none"> Seek employment and work in competitive integrated settings if receiving vocational services Engage in community life Control personal resources Receive services in the community to the same degree as others not receiving HCBS services <ul style="list-style-type: none"> If any part of the settings rule is not met due to modifications needed for a specific person, those specific qualities and conditions must be supported with a specific assessed need and justified in the person-centered service plan. <u>This may be evidenced by any of the following Examples of evidence showing compliance may include but are not limited to:</u> <ul style="list-style-type: none"> Photos, videos, posts, and other communications (shared via social media,

				<p><u>on a website, in a newsletter, via email, and/or internally) of community experiences, highlighting the purpose and connections being made with people outside of the program.</u></p> <ul style="list-style-type: none"> ○ <u>Written policy concerning routine calendar-building and how the organization develops it in collaboration with people being supported around their interests, skills, talents, and needs.</u> ○ <u>Training curriculum (for DSPs and people being supported) concerning calendar-building and including people being supported as a part of the process.</u> ○ <u>Training curriculum (for DSPs and people being supported) concerning resource-mapping of the regional and local community, based on shared interests of people being supported.</u> ○ <u>Documentation concerning whether the person benefitted from the community access, and how they responded to the experience.</u> ○ <u>Training curriculum (for DSPs and people being supported) on competitive integrated employment and its benefits, referencing people on all 4 Paths to Competitive Integrated Employment (EF Rule).</u> ○ <u>Any other method of interview, documentation, observation, etc. Demonstrating compliance</u> <ul style="list-style-type: none"> • <u>Employment Services update. From Employment First rule: "Submit to each individual's team at least once every twelve months, or more frequently as decided by the team, a written progress report that demonstrates that employment services provided are consistent with the individual's desired competitive integrated employment outcome and</u>
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				<u>that the individual receiving employment services has obtained competitive integrated employment or is advancing on the path to competitive integrated employment."</u>
	Day Services	New Question	Does the non-residential waiver service setting ensure a person's rights are protected? 42 CFR 441.301 (c)(4)(iii)	<p>There is opportunity for to ensure <u>Rights are exercised and protected</u>. The setting <u>/provider has policies and practices in place that ensure individuals have:</u> facilitates individuals having:</p> <ul style="list-style-type: none"> - Privacy - Respect - Freedom from intimidation - Freedom from restraint • If any part of the settings rule is not met due to modifications needed for a specific person, those specific qualities and conditions must be supported with a specific assessed need and justified in the person-centered service plan.
	Day Services	New Question	Does the non-residential waiver service setting optimize, without controlling, personal initiative and independence in life choices? 42 CFR 441.301 (c)(4)(iv)	<p>There are opportunities for Independence. The setting facilitates individuals having opportunities for/ <u>provider has established a program that facilitates a</u> <u>person's ability to independently choose:</u></p> <ul style="list-style-type: none"> - <u>Daily activities</u> - <u>Between different types of environments and activities; e.g., inside/outside, calming/stimulating, alone/with different groups of their choice</u> - <u>Accessible/Movement within the physical environment</u> - Choice in with whom to interact <p>If any part of the settings rule is not met due to modifications needed for a specific person, those specific qualities and conditions must be supported with a specific assessed need and justified in the person-centered service plan.</p>

				<p><u>Evidenced by:</u> This may be evidenced by any of the following: Examples of evidence showing compliance may include but are not limited to:</p> <ul style="list-style-type: none"> o Written policy concerning routine calendar-building and how the organization develops it in cooperation with people being supported around their interests, skills, talents, and needs o Training curriculum (for DSPs and people being supported) concerning calendar-building and including people being supported as a part of the process o Training curriculum (for DSPs and people being supported) concerning resource-mapping of the regional and local community, based on shared interests of people being supported. o Documentation concerning whether the person participated in Evidence that individuals have input into calendar-building, and expressing their choices for community access experiences. were included in the process. o Any other method of interview, documentation, observation, etc. Demonstrating compliance
	Day Services	New Question	<p>Does the non-residential waiver service setting facilitate personal choice regarding services and supports and who provides them?</p> <p>42 CFR 441.301 (c)(4)(v)</p>	<p>There are opportunities for choice. The setting facilitates <u>/provider gives</u> individuals having opportunities <u>make informed choices, specifically : to choose:</u></p> <ul style="list-style-type: none"> - <u>A choice about</u> Direct care staff <u>(express preferences of who they like to work with)</u> - Granted access to all <u>An informed choice about whether and how to access</u> available services, supports, and providers. <p><u>The provider also ensures that individuals are:</u></p> <ul style="list-style-type: none"> - Understood and listened to – staff know the person’s capabilities, interests, preferences, and needs. - Able to fully exercise individuality.

				<ul style="list-style-type: none"> - Allowed to change or update their preferences at any time. <p>If any part of the settings rule is not met due to modifications needed for a specific person, those specific qualities and conditions must be supported with a specific assessed need and justified in the person-centered service plan.</p>
DAY SERV	Serv Del Doc	5.012	<p>Adult Day Support and Vocational Habilitation only: If the provider is billing the community integration rate, <u>the service must meet all the following criteria:</u>is the service provided;</p> <ul style="list-style-type: none"> • in-person • in the greater community (not at a location created for the specific purpose of serving HCBS waiver recipients).<u>In a community integrated setting, which is a setting that "is integrated in and supports full access of individuals to the greater community to the same degree of access as persons not receiving home and community-based services.</u> • in groups of four individuals or fewer individuals? <p>5123-9-14; 5123-9-17</p>	<ul style="list-style-type: none"> • <u>Community integrated services eligible for the rate add on must be provided provided in the greater community and not at a location created for the specific purpose of serving HCBS waiver recipients.</u>
CORE	Phys Env	9.001*	<p>If the individual lives in a setting that is provider controlled, does the individual have a lease that:</p> <ul style="list-style-type: none"> • Includes a statement that the residence is provider-controlled • Explains the relationship between the landlord and provider of waiver services • Includes a statement that the individual may choose any provider to deliver waiver services? <p>5123-9-02</p>	<ul style="list-style-type: none"> • With the exception of the acceptable provider owned settings, the entity acting as the provider cannot also provide the residence. <ul style="list-style-type: none"> ○ This includes the practice of a provider signing a lease with the landlord and then subleasing to the individual(s). <p>Provider controlled setting means a residence where the landlord is:</p> <ul style="list-style-type: none"> • An entity that is owned in whole or in part by the individual's independent provider;

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				<ul style="list-style-type: none"> • An immediate family member of the individual's independent provider; • An immediate family member of an owner or a management employee of the individual's agency provider; • Affiliated with the individual's agency provider, meaning the landlord: <ul style="list-style-type: none"> ○ Employs a person who is also an owner or a management employee of the agency provider; or ○ Has, serving as a member of its board, a person who is also serving as a member of the board of the agency provider. • An entity that is owned in whole or in part by an owner, or a management employee, or an immediate family member of the individual's agency provider; or • An owner or a management employee of the individual's agency provider <p>The lease cannot Impose rights restrictions on roommate selection, privacy, security, decorating, visitors, control of schedule and activities, and access to food unless indicated in the ISP.</p> <p><u>Provider Owned-Controlled Decision Tree</u></p>
CORE	Phys Env	9.003*	<p>If the individual lives in a licensed residential facility or provider-owned setting, does the individual have a residency agreement that includes:</p> <ul style="list-style-type: none"> • An explanation of the relationship between the landlord and the provider, • A statement regarding whether or not the individual may choose a provider other than the residential facility or shared living provider to deliver waiver services? <p>5123-9-02</p>	<p>Residency agreement is not required if the Shared Living provider is related to the individual</p> <p>Provider owned setting means:</p> <ul style="list-style-type: none"> • A setting where shared living is provided; • A setting owned by an independent provider who is living in the setting and providing services to an individual who is living in the setting; or • A licensed residential facility

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				<ul style="list-style-type: none"> With the exception of the acceptable provider owned settings listed above, the entity acting as the provider cannot also provide the residence. <ul style="list-style-type: none"> This includes the practice of a provider signing a lease with the landlord and then subleasing to the individual(s). <p>The lease/residency agreement cannot: Impose rights restrictions on roommate selection, privacy, security, decorating, visitors, control of schedule and activities, and access to food unless indicated in the ISP.</p> <p><u>Provider Owned-Controlled Decision Tree</u></p>
CORE	Phys Env	9.002* ^	Are waiver services being provided in a setting that is NOT in a publicly operated or privately-operated facility that also provides inpatient institutional treatment OR in a building on the grounds of or adjacent to publicly operated facility that provides inpatient institutional treatment? 5123-9-02	<p>Contact and discuss with a DODD Review Manager.</p> <p><u>Excludes Individual Employment Support for maintaining Self-Employment.</u></p>
DAY	Phys Env	9.003 ^A	Are in-person day waiver services provided in a non-residential setting? 5123-9-13; 5123-9-14; 5123-9-15; 5123-9-16; 5123-9-17; 5123-9-19	<p>Contact and discuss with a DODD Review Manager.</p> <p>Issue a citation if day waiver services are provided in a residential setting that is actively being used as a residence, unless authorized as virtual services.</p> <p>Excludes Individual Employment Support for maintaining Self-Employment.</p>
CORE	Phys Env	9.004* ^A	In all residential waiver settings, does the individual have the freedom to: <ul style="list-style-type: none"> Select roommates, Privacy and security including locks and keys to living unit, Decorate their living unit, Have visitors of their choosing at any time, 	<p>All should be available to the individual, unless otherwise specified in the ISP.</p> <p>Homes where waiver services are delivered:</p> <p>Choice</p>

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			<ul style="list-style-type: none"> Control their schedule and activities, and Access food at any time? <p>5123-9-02; 42 CFR 441.301(4)(iv)-(vi)(A-B)</p>	<ul style="list-style-type: none"> The person can make choices without unnecessary influence from others. The person can change their mind about services in and outside the house, who visit and when, and who they want to live with. <p>Control</p> <ul style="list-style-type: none"> The person has control (when possible) over useful things/valuable supplies (time, money, food, belongings). <p>Independence and Access</p> <ul style="list-style-type: none"> The person receives services in their neighborhoodcommunity, or a different neighborhoodin a community almost the same as people not receiving HCBS services. <p>Provider-owned or controlled residential setting:</p> <ul style="list-style-type: none"> Privacy in bedroom and living area Entrance doors lockable by individual Choice about roommate(s) Free to get own furniture and decorate their bedroom and/or living area Decide who will visit and when Individual control and choice about schedule Can get food when they want Physically accessible home
New Question			<p>Did the provider ensure that residential services provided in an unlicensed residence with no more than four unrelated individuals with developmental disabilities?</p> <p>5126.01</p>	<p>Residential services cannot occur in facilities licensed by other entities.</p> <p>Contact the DODD Group Manager prior to issuing this citation</p>