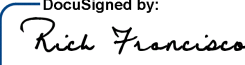




<b>Policy/Procedure Title:</b> Home and Community Based Services (HCBS)	<b>Policy and Procedure #:</b> 10-019	<b><u>Review Dates</u></b>	
<b>Category:</b> Provider Network  <b>Subject:</b> Home and Community Based Services (HCBS)	<b>Prepared by:</b> Name: Anissa Goodno Title: Provider Network Specialist  <b>Approved by:</b> DocuSigned by:  AA7EBD48ABB04A3... Rich Francisco, Executive Director		
	<b>Effective Date:</b> 04/28/2025	<b>Last Revised Date:</b> 12/30/2025	

I. POLICY

HealthWest and its contracted providers guided by the Home and Community Based Services (HCBS) Final Rule which include specialized residential services and non-residential Community Living Supports, Skill-Building Assistance and Supported Employment settings will remain in compliance with all aspects of the Final rule. (42 CFR 44.301(4)(5)(6)).

II. PURPOSE

- A. HealthWest will ensure that all Participants will have the right to participate and be involved in the planning of their services and supports to the maximum extent possible and that their wishes are reflected in the person center service plan. See Policy No. 06-026 for detailed requirements of The Person-Centered Planning Process and Individual Plan of Service as they relate to HCBS.
- B. For residential HCBS settings, providers will ensure Individual Rights with the HCBS Final rule. Individual rights include:
- A Lease and/or a Resident care agreement which explains how discharges happen and what to do during discharge.
  - Participants will have a right to their personal funds, a place to store and secure their belongings away from others.
  - A right to choose agency, roommate and/or personal room as well as a right to have a lock on their bedroom door and the freedom to furnish and decorate room however they choose.
  - Providers will also assure participants the right to participate in their community for a minimum of twice a week and/or to the extent they choose and to places and events they choose. This includes seeking services at local businesses, participating in community events, and attending places of worship.
  - A right to control their schedules, activities and resources to the extent they desire.
  - Setting must be accessible to individuals residing there so the beneficiary may function as independently as they wish.

C. In **all** HCBS settings, participants will have the right:

- To have communication expressed in a way they can understand and use.
- They will have unrestricted access to food in the home or center including the choice of what to eat and when to eat.
- A right to have a lock on the bathroom door.
- To have the setting free from any cameras, visual or audio monitors, as well as be free from all restrictions including all types of alarms and regular staff checks.
- Participants will have the right to visitors at any time and may come and go from home or program as they choose.

D. Restrictions: Modifications or restrictions of an individual's rights or freedoms must be based upon a specific health and/or safety need of the individual served. Health and/or safety needs are the only acceptable justifications for restricting an individual's rights and/or freedom of movement. Modifications or restrictions placed upon a Medicaid recipient's rights and/or freedoms may only be implemented when there is a HCBS compliant modification identified in the IPOS. In order to be compliant with the HCBS Final Rule, the IPOS must include: A HCBS compliant IPOS includes:

- The identification of the specific and individualized assessed need(s);
- The positive interventions and supports used prior to any modification;
- The less intrusive methods that were tried and did not work, including how and why they did not work;
- A clear description of the condition that is directly proportionate to the assessed need;
- A developed titration/fade plan that outlines the changes in behaviors and associated timelines to remove the need for the modification;
- Identifies services or supports that will be provided to support the development of skill to reduce the need for modification of the HCBS Final Rule;
- The regular collection and review of data to measure the effectiveness of the modification;
- The established time limits for periodic review to determine if the modification is still necessary or can be terminated; including a fully detailed plan that identifies movement from most restrictive to least restrictive interventions as well as the identification of the services and supports that will be provided to support the development of skill to reduce the need for the modification;
- The informed consent of the individual served; and
- The assurance that interventions and supports will cause no harm to the individual served.

E. Employment: Participants living in or attending HCBS settings will also be aided in seeking purposeful employment should they choose. Individuals must be provided the opportunity to seek employment or work in individual integrated settings. Therefore, the IPOS must reflect the individual's interest and desire to seek employment and the actions necessary to reach the goal of employment, with clearly defined steps that will be taken to support the beneficiary goal.

F. Community Integration: The HCBS Final Rule prohibits the isolation of individuals and requires they have the same level of access to their community as others who do not receive Medicaid. Therefore, HealthWest must ensure that a community integration goal is present in the IPOS of each beneficiary. This goal will be thoroughly discussed and documented each time the IPOS is updated.

The individual must be supported to the extent needed or desired to engage in a minimum of two meaningful community activities per week. The level of support needed or desired will be identified through the person-centered planning, included in

the IPOS, and may be dependent on any of the following:

- The existence of a HCBS compliant modification that limits access to the community without supervision or support.
- The location of the setting the individual resides in and its proximity to the greater community.
- Access and ability to use public transportation
- Activities should not be defined by others and may not be dependent upon the preferences of others.
- It is an opportunity to engage with the greater community in ways the beneficiary prefers.

HealthWest will monitor the community integration goal for all individuals. This will occur through regular review of activity/outing logs. Reviews will assess:

- Identified support level continues to be appropriate
- The need to develop more robust support consistent with changes in the individual's needs or desires.
- Regular access to meaningful activities occurs
- Meaningful activities are based upon the beneficiary's desires and are consistent with HCBS requirements.

- G. An individual being referred for placement in a secure/restrictive setting may not be placed in that setting before their IPOS establishes the health and/or safety need for the restrictive setting and a Provisional Consultation with the LRE, the member CMHSP and MDHHS occurs. The LRE is the gatekeeper to the provisional consultation and conducts a thorough review of evidence that supports the need for placement in the secure setting prior to scheduling the consultation. MDHHS reviews the evidence submitted that supports the need for the restrictive setting.
- H. Ongoing review and monitoring will occur through the LRE's Annual Facility Review/HCBS Physical Assessment/Individual Plan of Service and Behavior Treatment Plan (if applicable) review and the Comprehensive Assessment Process. The LRE coordinates with each Provider and HealthWest to address any related corrective and remedial actions related to assessment/reassessment of the setting. The LRE coordinates any related corrective and remedial actions related to the Individual Plan of Service and Behavior Treatment Plan (if applicable) with the appropriate clinical HealthWest staff.
- I. The LRE and HealthWest are responsible for ensuring the necessary HealthWest staff and Provider Network staff, in particular, Direct Support Professionals, are fully trained upon hire and annually, on the HCBS Final Rule including:
  - The HCBS Final Rule Requirements
  - The elements of a home and community-based setting
  - The HCBS Individual Plan of Service requirements
  - The HCBS modification/restriction language requirements including a titration/fade plan that outlines the changes in behaviors and associated timelines to remove the need for the modification
  - A clear understanding that the implementation of a modification/restriction may only occur when there is a HCBS compliant modification/restriction documented in the IPOS
  - The steps to report HCBS out of compliance concerns, especially as it relates to modifications in the Individual Plan of Service.

III. APPLICATION

Applies to HealthWest HCBS services, and Contracted Providers guided by the HCBS Final Rule.

IV. PROCEDURE

HealthWest will provide the following topics during orientation:

- A. Review applicable sections of the contract.
- B. Review HealthWest HCBS policy
- C. Assure setting is HCBS approved through the Lakeshore Regional Entity
- D. Provide opportunity for Questions and Answers.

V. ADDITIONAL REQUIREMENTS

All contracted providers guided by the HCBS Final Rule must be found by The Lakeshore Regional Entity or another PIHP to be in compliance and approved to receive Medicaid funds.

VI. ATTACHMENTS

- A. HCBS Guidance for Providers – Non-Residential Settings
- B. HCBS Guidance for Providers- Residential Settings

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## **HCBS Guidance for Providers – Non-Residential Settings**

This document is intended to assist providers in a self -assessment of their level of compliance with the HCBS rule. If you do not have policies and procedures as identified below you are advised that they are *required* in order to maintain approval to provide HCBS services.

Compliance verification will be ongoing and is required in order to receive HCBS Medicaid funding for services.

The setting must have a current, signed copy of the IPOS for every individual they serve

This document should not be returned to MDHHS HCBS staff

Any deviation from the policies identified below must be based on the individual's IPOS. Restrictions required for one participant may not impact the freedoms of any other participant. Settings may not have setting wide restrictions as a requirement to receive services in the setting.

Policies and procedures are in place that reflect the following:

The setting affords opportunities for individual schedules that focus on the needs and desires of an individual and an opportunity for individual growth

The setting allows individuals the freedom to move about inside and outside of the setting as opposed to one restricted room or area within the setting

The setting in the community/building is located among other residential buildings, private businesses, retail businesses, restaurants, doctor's offices, etc. that facilitates integration with the greater community

The setting encourages interactions with other people from the greater community

Employment settings provide individuals with the opportunity to participate in negotiating his/her work schedule, break/lunch times and leave and medical benefits with his/her employer to the same extent as individuals not receiving Medicaid funded HCBS

The setting provides individuals with contact information, access to and training on the use of public transportation, such as buses, taxis, etc., and are these public transportation schedules and telephone numbers available in a convenient location

The setting assures that tasks and activities are comparable to tasks and activities for people of similar ages who do not receive HCB services

The setting is physically accessible, including access to bathrooms and break rooms, and appliances, equipment, and tables/desks and chairs are at a convenient height and location, with no obstructions such as steps, lips in a doorway, narrow hallways, etc., limiting individuals' mobility in the setting.

The setting is selected by the individual from among setting options including non-disability specific settings. 42 CFR 441.301(c)(4)(ii)/ 441.710(a)(1)(ii)/441.530(a)(1)(ii)

Policies and procedures are in place that reflect the following:

The setting reflects the individual's needs and preferences and its policies ensure the informed choice of the individual

The setting options offered include non-disability-specific settings, such as competitive employment in an integrated public setting, volunteering in the community, or engaging in general non-disabled community activities such as those available at a YMCA

The setting options include the opportunity for the individual to choose to combine more than one service delivery setting or type of HCBS in any given day/week

The setting ensures an individual's rights of privacy, dignity, and respect, and freedom from coercion and restraint. *42 CFR 441.301(c)(4)(iii)/ 441.710(a)(1)(iii)/441.530(a)(1)(iii)*

Policies and procedures are in place that reflect the following:

All information about individuals is kept private

The setting supports individuals who need assistance with their personal appearance to appear as they desire

Personal assistance is provided in private, as appropriate

The setting assures that staff interact and communicate with individuals respectfully and in a manner in which the person would like to be addressed

Policies of the setting require that staff do not talk to other staff about an individual(s) in the presence of other persons or in the presence of the individual as if s/he were not present

The setting has policies that require the individual and/or representative grant informed consent interventions in the person-centered plan (modifications to the rule) prior to the use of restrictive interventions

The setting has policies that ensure that each individual's supports and plans to address behavioral needs are specific to the individual and not the same as everyone else in the setting. The setting offers a secure place for the individual to store personal belongings.

The setting 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. *42 CFR 441.301(c)(4)(iv)/ 441.710(a)(1)(iv)/441.530(a)(1)(iv)*

Policies and procedures are in place that reflect the following:

Policies prohibit gates, Velcro strips, locked doors, fences, or other barriers that prevent individuals' entrance to or exit from certain areas of the setting

The setting affords a variety of meaningful non-work activities that are responsive to the goals, interests and needs of individuals

The physical environment supports a variety of individual goals and needs

The setting affords opportunities for individuals to choose with whom to do activities in the setting or outside the setting

The setting allows for individuals to have a meal/ snack at the time and place of their choosing. The setting provides information on individual rights

The setting does not prohibit individuals from engaging in legal activities

The setting affords the opportunity for tasks and activities matched to individuals' skills, abilities, and desires.

The setting facilitates individual choice regarding services and supports, and who provides them (*42 CFR 441.301(c)(4)(v) 441.710(a)(1)(v)/441.530(a)(1)(v)*)

Policies and procedures are in place that reflect the following:

Individuals are provided a choice regarding the services, provider and settings and ensures participants have been given the opportunity to visit/understand these options

The setting affords individuals with the opportunity to regularly and periodically update or change their preferences

The setting ensures individuals are supported to make decisions and exercise autonomy to the greatest extent possible

Setting policies ensure the individual is supported in developing plans to support her/his needs and preferences.

## **HCBS Guidance for Providers- Residential Settings**

This document is intended to assist providers in a self -assessment of their level of compliance with the HCBS rule. If you do not have policies and procedures as identified below you are advised that they are *required* in order to maintain approval to provide HCBS services. Compliance verification will be ongoing and is required in order to receive HCBS Medicaid funding for services.

The setting must have a current signed copy of the IPOS for every individual they serve

This document should not be returned to MDHHS HCBS staff

Any deviation from the policies identified below must be based on the individual's IPOS. Restrictions required for one resident may not impact the freedoms of any other resident. Settings may not have setting wide restrictions as a requirement to live in the setting.

### **Section 1: Community Integration of Residential Setting**

Individuals live and/or receive services and supports in a setting where there is regular (*more than once per week*) opportunity for contact with people not receiving services

The residence allows friends and family to visit without rules on hours or times

### **Section 2: Individual Rights within Residential Setting**

Each individual will have a lease or residential care agreement for the residential setting

- The lease will explain how a discharge happens and what to do Individuals are provided with information on how to request new housing

Information about filing a complaint is posted in a way individuals can understand and use Individuals will receive information regarding who to call to file an anonymous complaint Policies in place require that the staff talk about individuals' personal issues in private only Policies are in place to ensure individuals have access to their personal funds

Policies are in place to ensure individuals have control over their personal funds Individuals have a place to store and secure their belongings away from others Individuals choose the agency who provides their residential services and supports Individuals can choose the direct support workers (direct care workers) who provide their services and supports

Individuals can change their services and supports as they wish

### **Section 3: Individual Experience within Residential Setting (Part A)**

Individuals have the option of having their own bedroom if consistent with their resources Individual can pick their roommate(s)

Individuals have a keyed lock on their bedroom door Individuals can close and lock their bathroom door

Policies are in place to ensure staff ask before entering individuals' living areas (bedroom, bathroom)

Policies are in place to ensure individuals choose what they eat

Policies are in place to ensure individuals choose to eat alone or with others

Policies are in place to ensure individuals have access to food they like at any time Policies are in place to ensure individuals can choose what clothes to wear

Policies are in place to ensure individuals have access to a communication device

Policies are in place to ensure individuals can use the communication device in a private place

The inside of the residence is free from cameras, visual monitors, or audio monitors

- Fixed cameras may be present in offices or medication distribution areas as long as they are fixed, directed at staff, and there is no risk that resident's images will be captured. Providers must work with their PIHP lead to ensure their compliance with this requirement.

Policies ensure if an individual needs help with personal care, the individual receives this support in privacy

Policies ensure individuals (with or without support) arrange and control their personal schedule of daily appointments and activities (e.g. personal care, events, etc.)

#### Section 4: Individual Experience within Residential Setting (Part B)

Policies are in place to ensure individuals have full access to the Kitchen Policies are in place to ensure individuals can access the kitchen at any time Policies are in place to ensure individuals have full access to the dining area Policies are in place to ensure individuals can access the dining area at any time Policies are in place to ensure individuals have full access to the laundry area

Policies are in place to ensure individuals have full access to the comfortable seating area

Policies are in place to ensure individuals have access to the comfortable seating area at any time

Policies are in place to ensure individuals have full access to the bathroom Individuals can access the bathroom at any time

Policies are in place that ensure there is space within the home for individuals to meet with visitors and have private conversations

Policies are in place that ensure individuals can choose to come and go from the home when they choose unless there is a restriction in the persons IPOS

Policies are in place that ensure individuals are free to move inside and outside the home when they choose unless there is a restriction in the persons IPOS

The home is physically accessible to all individuals

Policies are in place that ensure individuals can reach and use the home's appliances as desired

Policies are in place to ensure the home is free of gates, locked doors, or other ways to block individuals from entering or exiting certain areas of their home

Accessible transportation is available for individuals to make trips to the community

Individuals have a way to access the community where public transit is limited or unavailable