



GEORGIA DEPARTMENT
OF COMMUNITY HEALTH

Statewide Transition Plan Ensuring Compliance



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Georgia Department of Community Health

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Mission

The mission of the Department of Community Health is to provide access to affordable, quality health care to Georgians through effective planning, purchasing, and oversight.

We are dedicated to A Healthy Georgia.



Purpose

Shaping the future of A Healthy Georgia by improving access and ensuring quality to strengthen the communities we serve.



Outline

Settings Rule Operations



HCBS Settings Rule

Important parts of the HCBS rule (CMS 2249F)

- Went into effect 3/17/2014 (**NINE YEARS**)
- Provides the definition and qualifications of a home and community-based setting under Medicaid (HCBS waivers and state plan)
 - Setting: Provider-owned or operated
- Defines person-centered planning requirements and conflict of interest standards for case management
- Must come into compliance by March 2023

Impacted Providers

Residential Settings

- Alternative Living Services
- Community Residential Alternatives

Non-Residential Settings

- Adult Day Health
- Community Access Group
- Pre-Vocational Services
- Supported Employment Group
- Out-of-Home Respite



What is the purpose of the *Settings Rule*?

The purpose of the Rule is to ensure that people who receive home and community-based waiver services have opportunities to access their community and receive services in the **most integrated settings**. The Rule stresses the importance of ensuring that individuals who rely on home and community-based services are **not isolated or segregated** and **are able to exercise rights, optimize independence, and choose from an array of integrated service options and settings**



What is it ????

- Ensuring that HCBS settings provide people with disabilities **access to the broader community** and **facilitate relationships** with people without disabilities (other than paid providers and staff).
- Ensuring that HCBS settings provide people with disabilities control over daily life decisions such as what to eat, when to go to sleep, and who can visit; with opportunities for competitive integrated employment; and with choices about what services they receive and who provides them.
- Assisting states with coming into compliance with the obligation under the Americans with Disabilities Act and the U.S. Supreme Court's decision in *Olmstead v. L.C.* to provide services in the most integrated setting.



HCBS Qualities and Characteristics

- It's about the **QUALITIES** of the setting
- Is the setting integrated in and supports access to the greater community?
- Does the setting provide opportunities to seek employment and work in competitive integrated settings, engage in community life, and control personal resources?
- Does it ensure that the individual receives services in the community **to the same degree of access as individuals not receiving** Medicaid home and community-based services?

HCBS Qualities and Characteristics

What HCBS is not:

- Nursing facility, IMD, ICF/DD, or hospital
- Settings in a publicly or privately-owned facility providing inpatient treatment
- Settings on grounds of, or adjacent to, a public institution
- Settings with the effect of **isolating** individuals from the broader community of individuals not receiving Medicaid HCBS



Member's Rights

Rules and Regulations for Personal Care Homes 111-8-62

- Personal Care Homes- 111-8-62
- Governing Body- 111-8-62-07
- Admission Agreement- 111-8-62-16
- Supporting Resident's Rights- 111-8-62-25



111-8-62-.07 Governing Body

- (3) The governing body is responsible for implementing policies, procedures and practices in the home that support the core values of dignity, respect, choice, independence and privacy of the residents in a safe environment and in accordance with these rules. At a minimum, the policies and procedures that are developed must provide direction for the staff and residents
- (e) House rules and their enforcement.
- (f) Protecting the rights of the residents as set forth in these rules;



111-8-62-.16 Admission Agreement

- (1) A written admission agreement must be entered into between the governing body and the resident. Such agreement must contain the following:
 - (a) A current statement of all fees and daily, weekly or monthly charges; any other services which are available on an additional fee basis, for which the resident must sign; a request acknowledging the additional cost; and the services provided in the home for that charge.
 - (e) Provision for transportation of residents for shopping, recreation, rehabilitation and medical services, which must be available either as a basic service or on a reimbursement basis. Provision must also be made for access to emergency transportation at all times.



111-8-62-.16 Admission Agreement

- (h) A copy of the house rules, which must be in writing and also posted in the home. House rules must be consistent with residents' rights.



111-8-62.25 Supporting Residents' Rights

(r) Residents have the right to form a Resident Council and have meetings in the home outside the presence of owners, management or staff members of the home.

1. Exercise the constitutional rights guaranteed to citizens of this state and this country including, but not limited to, the right to vote.
2. Choose activities and schedules consistent with the resident's interests and assessments.
3. Interact with members of the community both inside and outside the home and to participate fully in the life of the community.
4. Make choices about aspects of his or her life in the home that are significant to the resident.



Setting Choice

Federal requirement

The person selects the setting from options including non-disability specific settings and private units in residential settings. The support coordinator identifies and documents setting options in the person-centered service plan. These options are based on the person's needs, preferences and, for residential settings, resources available for room and board

Member can make an informed choice of where they live, work, and receive services based on needs, preferences, financial resources and availability of settings, services and service providers. The support coordinator should give priority to the person's preferences, not the provider or guardian's preferences (unless for health and safety reasons).



Residential Settings

Federal requirement- 42 C.F.R. § 441.301 (c)(4)(vi)(A):

- 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 HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.



Provider Expectations

Lease, Residency Agreement or Individual Resident Placement Agreement should contain the HCBS-required resident rights and informs on the following:

- Amount and due date for rent or room/board
 - Person's responsibilities (i.e., maintaining his/her living space and not engaging in activities that disrupt or potentially cause harm to other residents)
 - Provider's timeframe for giving the person a notice of service termination and/or eviction
 - Conditions under which a provider could initiate an involuntarily termination the lease/agreement
 - Person's appeal rights information.



Provider Expectations

- The provider must give a signed copy of the lease/Residency Agreement to the member and maintain a copy of the agreement in the member's records. Case Management/Support Coordination should also have a copy of this agreement.



Provider Expectations

- Lease/Resident Agreements should be completed annually
 - Fees
 - Informed in writing at least 30 days of changes
 - Consent to release information
 - Continuous care plan development
 - Provision for transportation (access to emergency transportation at all times)
 - Refund policy (deceased, transfers, moves into institutional setting)
 - Copy of house rules must be in writing and posted in a conspicuous location



Providers Expectations

- The following should **not** occur:
 - A provider forces a person to move out without due process, including adequate notice
 - A provider discharges/evicts a person for an issue that was not included or described in the admission agreement that was signed by the person or his/her legal representative
 - A provider inappropriately uses a lease/Residency Agreement to force a person to waive/modify certain rights under “house rules” (e.g., a lease/Residency Agreement cannot prohibit a person from having any visitors).



Provider Expectations- House Operations

- Member should have lockable doors with key or fob
 - Staff knocks
 - Staff are trained on emergency measures when needed and door is locked
- Control over privacy
- Decorate their room
- Members have in/out ability even if the front door is locked (e.g., ring a bell, have their own key or request a key prior to leaving)
- Providers allow potential house members to meet housemates

When there is a medical issue or an identified health or safety concern, the provider needs to share their concern with the person's support coordinator. They must document the modification of rights in the person-centered plan.



Provider Expectations

People control their day-to-day lives in the same way other community members do. This includes control over when they like to wake up and get ready, as well as when and what they eat.

- To comply with this requirement, providers will ensure:
 - ⌚ People have freedom to control their own schedule and activities (e.g., they do not have to adhere to a set schedule of waking, bathing, exercising or participating in activities)
 - ⌚ Support activities are flexible and work around the person's preferred schedule
 - ⌚ People do not have to follow one "set schedule" for all living in the setting
 - ⌚ People have access to food (meals or snacks) and a place to store snacks (e.g., bedroom, kitchen), if desired
 - ⌚ People have choices of when, where and with whom they would like to eat (e.g., no set "meal times" or assigned seats, a person can request alternative meals if desired, etc.)
 - ⌚ People can eat a meal or snack at any time (e.g., if they miss a meal due to an activity, they do not have to wait for the next meal to eat; the provider can set aside a plate for them to reheat later or provide an alternate meal when they return)
 - ⌚ People have the right to refuse to participate in activities the rest of the people in the setting want to experience.



Provider Expectations

- Members are supported in their day-to-day activities
- Providers are flexible when planning meetings and other activities so people can coordinate their schedules
- People can ask for assistance if they would like to schedule appointments for services in the community or arrange for transportation
- The provider creates an activity calendar each week so people can make decisions about activities in which they would like to participate
- People can help develop the week's grocery list for the week or activity options
- People are encouraged to share ideas and make choices about setting activities based on their own personal preferences and interests



Provider Expectations

The following should **not** occur

- The provider requires people to participate in activities
- The provider restricts a person's access to food because of the provider's personal belief that the food choice is not appropriate or healthy
- The provider only makes food available or accessible to people when the provider prepares regular meals or supplies a snack
- The provider places restrictions on whether a person eats dessert based on whether he/she finishes dinner
- The provider requires people to be awake and dressed at the same time as others
- The provider requires "lights out" or "bedtime" at a certain time.



Statewide Transition Plan-Residential Settings

VISITORS & COMMON AREAS



Provider Expectations – Visitors and Common Areas

- Members can have visitors of their choosing at any time
- No restrictions on visit times
- Right to privacy during the visit
- Provider cannot dictate who can visit
- Should refrain from scheduled visitation hours

To comply with this requirement, providers must ensure a person's physical environment meets his or her needs. For example, people must be able to use common areas in the home, such as the kitchen, dining area, laundry area and shared living space, to the extent they desire and safe to do so.



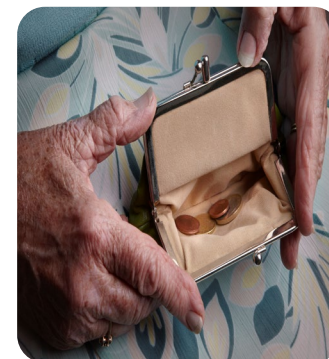
Control of Resources

Federal requirement

- The setting is integrated in and supports full access of people 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 people who do not receive Medicaid HCBS.

Provider expectations

- Provider expectations (if money management is a provider duty):
 - ⌚ People have control over their personal funds and access to information about their income
 - ⌚ The provider identifies roles and responsible parties as they relate to money management
 - ⌚ Staff are trained to safeguard funds and follow the person's plan with respect to funds, if such a plan is in place.



Rural settings and Integration

- **How can a rural setting meet this requirement?**

Integration is different in communities across Georgia. What can happen for a member in Atlanta will look very different in Crisp County. A very rural setting may have fewer opportunities for people to participate in community events or gatherings, but this is also true for the public in that rural community. The key is to be sure people have the same access to the community as others who live in that rural setting.

- **Is integration different for everyone?**

Yes, each person may have different needs and different desires. Providers are trained to address individual needs and desires and find a way to help every person meet those needs and desires to the greatest possible extent. Also, keep in mind that one person's needs should not limit another person's freedoms. For example, if one person cannot use revolving doors, the provider should not avoid group outings to places where there are revolving doors. This limitation of one person, limits everyone's options for community engagement.



No Coercion/ Restraint

Federal requirement

- For licensed residential facilities The Department of Community Health Healthcare Facility Regulation Division provides very clear statutory laws regarding a member's right to privacy, dignity and respect and freedom from coercion and restraint. Those guidelines can be found here:

Personal Care Homes-

- <https://dch.georgia.gov/media/53121/download>



No Coercion or Restraint

Types of Restraints not allowed



<u>Physical</u> Restraining limbs e.g., 4 persons to provide care Moving a person to another location against their will	<u>Environmental</u> Seclusion room Half doors, barricades Wander Guard Secure Units Removal of cane or walker
<u>Mechanical</u> Limb, waist, and trunk Back-fastening seat belt Full bed-side rails Chair with locking table Broda/Geri	<u>Pharmacologic (when not prescribed)</u> Antipsychotics Antidepressants Sedatives Benzodiazepines Over-the-Counter sleep aids

The following should not occur

- ☐ Staff gives people over-the-counter drugs to make people sleepy for the convenience of the provider.
- ☐ Staff posts sensitive member information on bulletin boards for other staff members to view for ease of communication.



Change of Ownership and other sticky topics

- If a CAG provider changes locations or adds another location, they should not engage in enticing or encouraging members to move to that location.
- At a minimum, a 30-Day notice is required if there is a provider change and Support Coordinator will work with the member to determine if they wish to remain with the new provider or broker to another provider.



Provider Reminders

Please ensure that you are attending

- Provider Trainings
- Townhalls if applicable
- Review Banner Messages
- Review Policy Manuals
- Refer to DBHDD and DCH Websites
- Social Media portals



THANK YOU!

