



STATE OF WASHINGTON
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
Aging and Long-Term Support Administration
PO Box 45600, Olympia, WA 98504-5600

June 29, 2015

AL TSA: ALF #2015-014
IMPLEMENTING FEDERAL HOME & COMMUNITY BASED SETTINGS (HCBS) RULES

Dear Assisted Living Facility Administrator:

In 2014, the Centers for Medicaid and Medicare promulgated [federal regulations](#) about home and community based settings. The regulations are intended to ensure that individuals receiving long-term services and support have full access to the benefits of community living and the opportunity to receive services in the most integrated setting appropriate. Information about these regulations was previously provided to you on September 29, 2014 in AL TSA: ALF #2014-013.

The home and community based settings regulations are compatible with current Washington State statute and rule related to client rights that assisted living facilities are expected to follow. The rules of each assisted living facility may not conflict with the resident rights outlined below and negotiated care plans must continue to incorporate resident choices and preferences. This letter reviews the key requirements in the federal HCBS regulations.

Community Integration

- Residents must be assured full access 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.

Choice

- Residents have the freedom and support to control their own schedules and activities, and have access to food at any time.
- Residents must be able to have visitors of their choosing at any time.
- Residents must be able to choose what services they will receive and who will provide them such as doctors, pharmacies, and other community providers.

Privacy in sleeping units

- Residents must be given the option of a lockable door to the unit's entrance, with only appropriate staff having keys to door.
- Residents sharing units have a choice of roommates in that setting.
- Residents have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.

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Independence

- The setting must be physically accessible to the residents who live there.
- Residents must have Independence in making life choices, including choices on daily activities and with whom to interact.
- Residents must be assured the rights of privacy, dignity and respect, and freedom from coercion and restraint.

In situations where the residents' health or safety may be jeopardized by a requirement, the requirements may be modified. Modifications may not be made for the convenience of the provider or as a means of disciplinary action. Modifications must be individualized and address an assessed need of the resident.

The requirements may only be modified when:

- A specific and individualized need has been identified in the resident's assessment and Include a clear description of the condition that is directly proportionate to the specific assessed need is documented in the Negotiated Care Plan.
- The Negotiated Care Plan documents the positive interventions and supports used prior to any modifications.
- The Negotiated Care plan documents less intrusive methods of meeting the needs that have been tried but did not work.
- The ongoing effectiveness of the modification is measured through regular collection and review of data.
- Time limits are established for periodic reviews to determine if the modification is still necessary or can be terminated.
- The resident has given informed consent to the modification.
- The interventions and supports will cause no harm to the individual.

DSHS is committed to ensuring that all residents enjoy full protection and promotion of the rights outlined in this letter as well as existing Washington State statute both immediately and over the long term. RCS surveyors will continue to review assisted living facility rules and policies related to resident rights when conducting survey and licensure reviews. Additional training on HCBS requirements will be made available to assisted living facilities over the next several months.

As always, thank you for all that you do to care for the vulnerable adults in your community.

Sincerely,



Kathy Morgan, Interim Director
Residential Care Services

"Transforming Lives"