

# Home and Community Based Services & New Federal Rules

Presented to:  
ALF and AFH Providers serving  
Washington State

# New Federal Rules Agenda

We will discuss

## **Home & Community Based Services Setting Rules**

- Client Rights in HCBS Settings
- Qualities of HCBS Settings
- Modifications to Client Rights



## **Person Centered Planning Rules**

- Person-Centered Planning

# The Intent Of The Rule

To ensure that individuals receiving long-term services and support have:

- Their rights protected
- The opportunity to receive services in the most integrated setting appropriate and
- Full access to the benefits of community living



# Home and Community Based Setting Requirements

- Apply to all community based settings, including:
  - Assisted Living Facilities
  - Adult Family Homes



# Qualities of All HCBS Settings

- Setting is integrated in and supports full access to the greater community...opportunities to engage in community life, control personal resources, receive services in the community to same degree of access as individuals not receiving Medicaid HCBS
- Setting is selected by the individual from among setting options. Setting options are identified and documented in person-centered service plan and based on individual's needs, preferences, and for residential settings, resources available for room and board



# Qualities of All HCBS Settings

- Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint
- 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
- Facilitates individual choice regarding services and supports, and who provide them



# Additional Qualities Required for Licensed Residential Settings

- Protection from eviction and appeals process comparable to those provided under the landlord tenant law
- Privacy in their sleeping or living unit
- Entrance doors lockable by the individual with appropriate staff having keys to doors
- Individuals sharing units have choice of roommates



# Additional Qualities Required for Residential Settings



- Freedom to furnish and decorate sleeping or living unit within the lease or other agreement
- Freedom and support to control own schedules and activities and have access to food at any time
- Have visitors of their choosing at any time
- Setting is physically accessible to the individual
- Any modification of client rights must be supported by a specific assessed need and justified in the person-centered plan



# Person Centered Service Planning

Includes both:

- The **process** for developing the resident's CARE plan and negotiated care plan or service agreement and
- The **content** of the resident's CARE plan and negotiated care plan or service agreement



# Person Centered Service Planning

- The Case Manager:
  - Must discuss and document options for home and community based settings that were offered to the individual
  - Document that the setting was chosen by the individual



# Person Centered Service Planning

- Planning process for CARE and NSA/NCP:
  - Includes people chosen by the individual
  - Provides information and support to ensure the individual directs the process to the maximum extent possible, and is enabled to make informed choices and decisions



# Person Centered Service Planning

- Planning process (cont.):
  - Is timely and occurs at a time and place that is convenient to the individual
  - Reflects cultural considerations of the individual
  - Includes strategies for solving conflicts or disagreement within the process



# Person Centered Service Planning

- Planning process (cont.):
  - Offers choice of services and supports received and from whom
  - Includes a way for residents to request an update to their plan



# Person Centered Service Plan

- The Service plan must:
  - Reflect client strengths and preferences
  - Reflect clinical and support needs through the functional assessment
  - Include client identified goals and desired outcomes



# Person Centered Service Planning

- The service plan must:
  - Be finalized and agreed to in writing and signed by the resident and provider
  - Be distributed to the individual and other people involved in the plan
  - Prevent the provision of unnecessary or inappropriate services and supports

# Person Centered Service Planning

- Plan review

Service plans, Negotiated Service Agreements, and Negotiated Care Plans must be updated:

- At least every 12 months
- When client circumstances or needs change
- At the client's request





# Person Centered Service Planning

- Admissions Agreements
  - Must not contradict any of the federal rules on resident rights
  - Must not ask resident's to give up any of their rights
  - Discharge rules must provide protections as described in RCW 70.129.110 and Chapter 59.12 RCW



# Person Centered Service Planning

- Negotiated Care Plans/Service Agreements
  - Should follow a person centered planning process, as described in previous slides
  - Must document, as specified on the next slide, any modifications to the resident rights



# Modification of Client Rights

## **Any modification of a client's rights must be justified:**

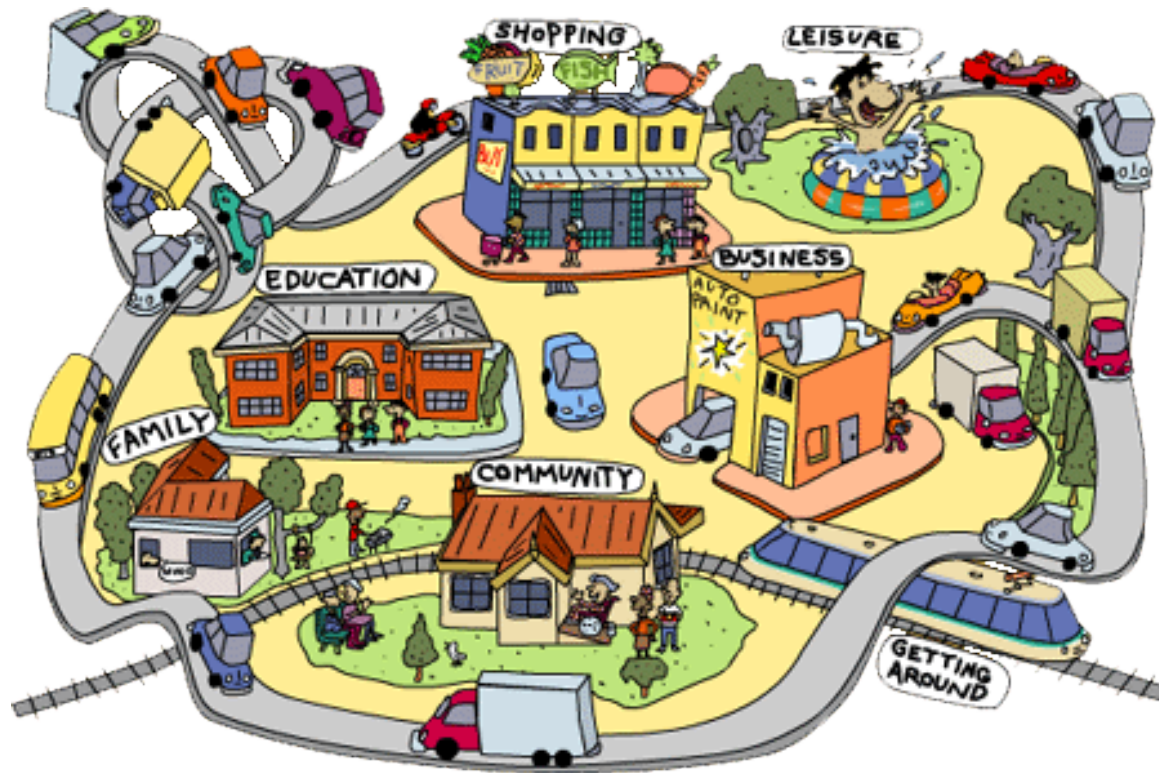
- Identify the specific and individualized assessed need
- Document all positive interventions and supports used prior to any modification to the person-centered service plan
- Document less intrusive methods that have been tried but did not work to meet the need
- Provide a clear description of the modification
- Requires informed consent of the client

# Modification of Client Rights

## **All modifications must include:**

- Regular reviews to measure the ongoing effectiveness and
- Established time limits to determine if the modification is still necessary or can be terminated

# Community Integration



# Community Integration

- **Residents must be assured full access to:**
  - Seek employment and work in competitive integrated settings
  - Engage in community life
  - Control personal resources
  - Receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS



# Community Integration

- **Facilities must:**
  - Identify residents' preferences and interests
  - Provide resources on activities and transportation
  - Assist residents to access the community

# What RCS Will Look For



- During routine inspections RCS will be asking residents and their family members about their freedom to make choices and to be involved in their care planning
- RCS licensors will also be noting if residents have a lock on their bedroom door and asking them if they have requested one



# Resident Questions

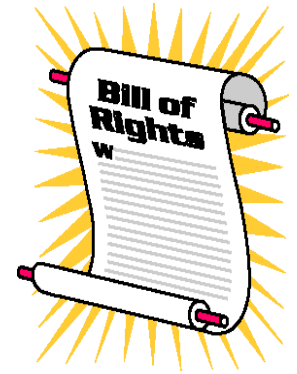
During an inspection RCS licensors will ask all residents about their experience in the home and if they feel they are able to make choices about their daily lives such as:

- what they eat,
- what they wear,
- the activities they engage in, etc.

# Resident Questions

- If any residents express concern, the licensor will look more closely at the issue to determine:
- If it is an isolated incident that may be justified, such as the resident is unsafe
  - Which must be documented as a modification in the NSA or NCP
- If the provider is restricting a residents freedom to make choices.

# What WACs Or RCWs Might Be Cited?



- Since HCBS is focused on person-centered planning and freedom of choice, RCW 70.129
- Resident Rights will be a primary source of citations for both AFH and ALF facilities

# What WACs or RCWs Might Be Cited?

- Other HCBS requirements may be cited in the following chapters:
  - WAC 388-76 Adult Family Homes
  - WAC 388-78A Assisted Living
  - WAC 388-110 Assisted Living Contracts

# Questions?



Transforming  
Lives

Thank you!