

HCBS

Policy/Practice Language Guidance

The language below is sample HCBS language that may be used for policies. This language should not replace existing policies, but may be used to enhance existing policies.

Scope: [Provider] ensures that people with disabilities have full access to and enjoy the benefits of community living through long term services and supports in the most integrated settings of their choosing.

[Provider] Participant Policies verify HCBS requirements are met of the 42 CFR 441.301 Federal HCBS Rule that was effective March 14, 2014.

Policy 1: ACCESS TO THE COMMUNITY (42 CFR 441.301(4)(i))

[Provider] will ensure that all participants know about their community and supported in making choices related to accessing the community, including: Accessing services provided at local businesses, recreational opportunities, types of transportation services available, local events and activities, churches, service/civic organizations, etc. Participants shall be supported in fully accessing and becoming a member of their community. For instance, if a participant wants to attend an event, staff will assist the participant in identifying what is needed for them to participate (money, transportation, assistance of staff/natural supports, accessibility of location, etc.) and help the participant to plan and make decisions, including considering provider agency and natural support options, available funds, etc. [Provider] will support participants in researching their community to identify how to find services, local events, groups, transportation routes, etc. and help identify options for participants to choose between. Participants will be encouraged and supported in becoming a contributing member of their community.

Policy 1a: *Staff will receive training to ensure they understand how to support participants to learning about and accessing their community.*

Policy 2: EMPLOYMENT (42 CFR 441.301(4)(i))

[Provider] will ensure that all participants who wish to work, are supported in doing so. Participants who are interested in beginning the process, should talk with [Provider] or request a planning team meeting to discuss employment options. [Provider] will assist and/or engage in conversations with the planning team about employment service options. If participants obtain or have a job, [provider] will support them, as needed, to accommodate their identified needs and help in their success.

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Policy 2a: *Staff will receive training to ensure they understand and support all participants to have the right to employment opportunities and how they can impact their success.*

Policy 3: MONEY MANAGEMENT/PERSONAL RESOURCES (42CFR 441.301(4)(i))

[Provider] will support individuals in managing their own money and personal resources, whether they have a payee or are managing their own money. Participants shall control their own access to their money, but may also request to have [Provider] help manage funds. If requested, [Provider] will help pay your bills, make deposits, budget for more expensive item, and help you to learn how to manage money. [Provider] will develop a system to account for and safeguard participant funds, including staff training. Participant funds will only be used by for the participant.

Policy 3a: *Staff will receive training to ensure they understand the importance of participants having control of their own money and resources, how to provide support, and how to identify misuse of individual funds and property.*

Policy 4: COMMUNITY RESOURCES (4 CFR 441.301(4)(i))

[Provider] will help educate and engage participants to seek their input on choices regarding their needs being met and accessing services in their community; such as, medical, behavioral, social and recreational activities, or other services that apply. The [provider] will encourage participants to make informed choices about where they get their services.

Policy 4a: *Staff will receive training to ensure they understand how to assist and support participants in accessing services in the community.*

Policy 5: CHOICE OF SETTINGS (42 CFR 441.301(4)(ii))

[Provider] will help educate and engage participants and seek their input and discuss their preferences in activities, living arrangements, staff and if participants convey they want services at other locations, [provider] will assist. [provider] will promote integration as participants without disabilities regarding living, learning, working, and enjoying life as

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others do in the community. [provider] offers participants participant opportunities to change their services, and express their concerns or ask questions regarding the services they receive.

Policy 5a: *Staff will receive training to ensure they understand how to support participants with options for waiver services in settings other than with participants with disabilities.*

Policy 5b: *Staff will receive training regarding how to support participants in modifying their services at their request and express their concerns or ask questions regarding the services they receive.*

Policy 6: RESTRICTIONS/MODIFICATIONS (42CFR 441.301(4)(ii)).

Participants shall be in full control of their daily lives. No participants will have their rights restricted by [provider] except if detailed in their ISP or BSP and approved by the planning team. Any modification or restriction of a “right” must meet the following requirements, be reviewed by the Due Process Committee and be documented in the ISP:

- Specific assessed need and justified,
- Positive interventions and supports used prior to any modifications,
- Less intrusive methods of meeting tried but did not work,
- Clear description of the condition that is directly proportionate to the specific assessed need,
- Regular collection and review of data to measure the ongoing effectiveness,
- Informed consent of the participant,
- Assurance that interventions and supports will cause no harm to the participant.
- If a participant has a rights restriction indicated in his/her ISP, [Provider] will collaborate with the Support Coordinator and other providers to collect data, attempt alternative strategies, and work towards reinstating the restriction over time.
- External advocate and right to participate in the process.

Policy 6a: *Staff will receive training to ensure they understand how to support participants with restrictions/modifications and understand due process.*

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Policy 7: PRIVACY (42CFR 441.301(4)(ii) and (42CFR 441.301(4)(iii))

Participants have a right to privacy. All participants will have the opportunity to assist in the selection of a roommate/housemate. Participants will have privacy in their bedrooms. If participants share a bedroom, participants can request private space to meet with a visitor during day services. Staff will always knock before entering a person's home, bedroom or bathroom. Extra effort will be made to ensure privacy in bedrooms and bathrooms except when assistance is needed and documented in the ISP. All participants will have input on the people with whom they live. If an issue arises between housemates, [Provider] will meet with participants and try to develop solutions. If a participant expresses to change housemates, [Provider] will assist in making alternate arrangements.

Policy 7a: *Staff will receive training to ensure they understand the importance of participant privacy and choice of roommate or housemate.*

Policy 8: HOUSING OPPORTUNITIES (42CFR 441.301(4)(ii))

[Provider] will work with participants who have the desire to live in the least restrictive environment and will receive information on affordable housing. [Provider] will give choice of housing options and of living arrangements. Participants will decide where they want to live, who lives with them and who they want to provide their supports. Participants will have the opportunity to discuss with [provider] and [TCM entity] during the Person Centered Planning process regarding their waiver funding and resources available for housing.

Policy 8a: *Staff will receive training to ensure they understand the importance of participants have options available to choose their living arrangements.*

Policy 9: CODE OF CONDUCT (42CFR 441.301(4)(iii))

[Provider] and all staff recognize the importance of treating participants with “**dignity and respect**”. The following code of conduct applies to anyone employed by [Provider]:

- **Protect Health & Safety:** If [Provider] suspects a participant has experienced any abuse, neglect, exploitation, or maltreatment, our first duty is to protect the participant's health and safety. Staff must follow agency policy and criteria for reporting events.

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- Compliance with laws: All staff will conduct business activities in compliance with all applicable laws and [Provider's] policies. All staff are expected to take appropriate action against co-workers who violate laws or policies.

Policy 9a: *Staff will receive training to ensure they understand the importance of treating participants with dignity and respect.*

POLICY 10: GRIEVANCE POLICY (42CFR 441.301(4)(iii))

Participants can talk to staff any time they are unhappy with staff or the services provided, and [Provider] will try to resolve the issue. [Provider staff] will help the participant contact their guardian or their case manager if needed. If the issues have not been resolved, participants or guardians can file a verbal or written grievance, which is a formal way of telling [Provider] that you are unhappy about something and asking for someone to help you with it.

[Provider] will have the Division's complaint process and anonymous complaint information available for all participants and guardians.

Policy 10a: *Staff will receive training to ensure they understand the importance of participants understanding their rights, grievance process and how to file an anonymous complaint.*

If applicable

Policy 10b: *Staff will receive training to ensure participants are coercion and restraint free.*

Policy 11: FREEDOM OF CHOICE (42CFR 441.301(4)(iv))

[provider] will support participants in their independent choices they make in their daily activities, how they spend their free time, but not limited to whom they interact, what activities they choose or where they are located. [provider] will offer different options to participants so they may make a decision independently or with a guardian without any undue influence, and that is based on sufficient experience and knowledge, including exposure, awareness, interactions, and/or instructional opportunities, to ensure that the choice is made with adequate awareness of all the available alternatives to and consequences of options available.

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Policy 11a: *Staff will receive training to ensure they understand the importance of participant's freedom of choice in making choices about how they spend their time, and independence in making their own informed decisions.*

Policy 12: VISITORS (42CFR 441.301(4)(iv))

Participants are encouraged to invite family and friends to visit in the participant's home at any time. Visitors are allowed in common areas and the participant's bedroom, if the participant wishes to invite them.

Policy 12a: *Staff will receive training to ensure they understand how to support participants who invite family and friends to their home.*

Policy 13: SERVICES AND SUPPORTS (42CFR 441.301(4)(v))

[provider] will seek input on the participant's preferences in staff and/supports or the type of staff that are the best fit. If multiple participants and guardians request a small number of staff, [provider] ensures participants have fair access to their preferred staff as available or appropriate. [provider] will offer different options to participants so they may make a decision independently or with their guardian that is based on sufficient experience and knowledge, including exposure, awareness, interactions, and/or instructional opportunities, to ensure that the choice is made with adequate awareness of all the available alternatives to and consequences of options available.

Policy 13a: *Staff will receive training to ensure they understand the importance and process to assist participants in having input with their support and services.*

Provider Owned and Controlled Residential Setting

Scope: CMS views staff or employee of the provider owning the home to be provider owned and controlled. If there is a direct or indirect financial relationship between the provider and owner of the home would also be provider owned and controlled.

Any modification/restrictions to a participants ISP to the following HCBS requirements must document that Due Process was followed.

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Policy: 14: RENTAL AGREEMENT (42CFR 441.301(4)(vi)(A))

[provider] has participants that live in a home that is owned by the [provider], but has a legally enforceable agreement or lease that offers the same protection from eviction that tenants have under landlord-tenant law of the state, county, city, or other designated entity have available. Participants will learn how to express they want to relocate or request new housing.

Policy 15: PRIVACY (42CFR 441.301(4)(vi)(B))

All participants will have privacy in their bedrooms; if participants share a bedroom, participants can request private space to meet with a visitor during day services. Staff will always knock before entering a person's home. Extra effort will be made to ensure privacy in bedrooms and bathrooms except when assistance is needed and documented in the ISP.

All entrance doors to the residences will have locks, and all participants will be given a key or other access. Bedroom doors may also have locks and participants will be given a key or other access to their own bedroom door. Appropriate staff will have access to entrance door and bedroom door keys but will always knock before entering.

Policy 16: FREEDOM OF CHOICE (42CFR 441.301(4)(vi)(C)).

[provider] will offer participants activities that are individualized; Participants will have access to their food at any time; and choose their own schedule.

Policy 17: VISITORS (42CFR 441.301(4)(vi)(D))

Participants are encouraged to invite family and friends to visit in the participant's home at any time. Visitors are allowed in common areas and the participant's bedroom, if the participant wishes to invite them. [Provider] will not restrict the participant's rights of visitors.

Policy 18: ACCESSIBILITY (42 CFR 441.301(4)(vi)(E))

[provider] will ensure that all participants have access to their home and community. Practical accommodations will be offered to allow for the participants to move about freely in their home.

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Policy 19: RESTRICTIONS/MODIFICATIONS(42CFR 441.301(4)(vi)(F)).

No participants will have their rights restricted by [provider] except if detailed in their ISP or BSP and approved by the planning team. Any modification or restriction of a right must meet the following requirements and be documented in the ISP and reviewed by the Due Process Committee:

- Specific assessed need and justified,
- Positive interventions and supports used prior to any modifications,
- Less intrusive methods of meeting tried but did not work,
- Clear description of the condition that is directly proportionate to the specific assessed need,
- Regular collection and review of data to measure the ongoing effectiveness,
- Informed consent of the participant,
- Assurance that interventions and supports will cause no harm to the participant.
- If a participant has a rights restriction indicated in his/her ISP, [Provider] will collaborate with the Support Coordinator and other providers to collect data, attempt alternative strategies, and work towards reinstating the restriction over time.

Policy 19a: *Staff will receive training to ensure they understand how to help participants with restrictions/modifications and understand the due process.*

Heightened Scrutiny evidence (42 CFR 441.301(5)(v))

1. The setting is located in or adjacent to a publicly or privately owned-owned facility that provides inpatient treatment.
2. The setting is on the grounds of, or immediately adjacent to, a public institution.
3. The setting has the effect of isolating participants receiving Medicaid-funded HCBS from the broader community of participants not receiving Medicaid-funded HCBS.

Monitoring of HCBS compliance:

Evidence based on the procedures set forth for [provider] may and will be monitored by the Division as well as [provider] will also implement a systematic quality review of their waiver settings as identified in the policies to show ongoing compliance of the Federal HCBS rule.

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I acknowledge receipt of and understanding of the [Provider] HCBS Participant Policies.

Participant Signature

Participant Name (Please Print)

If Applicable: Guardian Signature

Date

SAMPLE