Home and Community-Based Services Provider Training





Learning Objectives

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1. Know the intent of the Home and Community-Based Services (HCBS) final rule set and the Person-Centered Planning (PCP) process.
2. Learn about HCBS compliance roles and responsibilities.
3. Understand the key elements of the final rule set and implications for providers, supervisors, and direct care workers.



PART 1:

Home and Community-Based Services





What Are HCBS?

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HCBS provide opportunities for persons who are eligible for Medicaid to receive services in their own home or community rather than in institutions or other isolating settings.



Programs that provide HCBS serve a variety of different population groups, including adults with Intellectual/Developmental Disability (I/DD), children and young adults with Serious Emotional Disturbance (SED) or I/DD, and persons with serious mental illnesses and persons with physical disabilities.



HCBS include Community Living Supports (CLS), Skill Building Assistance, and more.

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HCBS include Community Living Supports (CLS), Skill Building Assistance, Respite, and more.

HCBS: Service Specific Descriptions

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- **CLS** are used to increase or maintain personal self-sufficiency, facilitating an individual's achievement of their goals of community inclusion and participation, independence or productivity. They may be provided in the individual's residence or in community settings.

- **Skill-Building Assistance** is a service and activities identified in the Individual Plan Of Service (IPOS) that emphasize developing and learning skills that allow the individual to successfully engage in meaningful activities such as school, competitive employment and/or volunteering. They can be provided in community-based settings or in the individual's home.



Where Can HCBS Be Provided?

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- HCBS can be provided in residential and non-residential settings, as well as in the community.
- Individuals may receive HCBS in:
  - ✓ Homes they own or rent.
  - ✓ A family member's home, when they choose to live with parents or other relatives.
  - ✓ Adult Foster Care (AFC) homes or specialized residential group homes.
  - ✓ Community Settings.
- Note: Individuals enrolled in the Habilitation Supports Waiver (HSW) cannot receive HCBS in residential settings with more than 12 residents.



Knowledge Checkpoint

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True or False

HCBS can be provided in community settings.



Knowledge Checkpoint

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True or False

HCBS can be provided in community settings.

True



PART 2:

HCBS Final Rule Intent and Requirements

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HCBS Final Rule

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Requires that Medicaid-funded services and supports be integrated in and support 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 such services and supports.

42 CFR 441.700 et. seq.



HCBS Final Rule Set

- The final rule addresses several sections of Medicaid law under which states may use federal Medicaid funds to pay for HCBS.
- The rule supports enhanced quality in HCBS programs, adds protections for individuals receiving services and includes requirements for states to receive feedback directly from waiver participants.
- The rule reflects the Center for Medicare and Medicaid Services (CMS) intent to ensure individuals receiving home and community-based services and supports have full access to the benefits of community living and can receive services in the most integrated setting.
- In addition to access to the community, the rule focuses on the individual's experience receiving HCBS in the setting.

Intent of the HCBS Final Rule Set

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To provide the framework for ensuring HCBS are truly person-centered, and that settings where individuals live and/or receive services facilitate autonomy and independence.

To ensure individuals receiving long term services and supports through HCBS programs have full access to benefits of community living and the opportunity to receive services in the most integrated setting appropriate.

To ensure that individuals rights are not restricted without meeting the requirements of the HCBS rule.

To enhance the quality of HCBS and provide protections to participants.



Final Rule Implementation

In response to the Public Health Emergency (PHE), CMS extended the date for full compliance.

CMS and Michigan Department of Health and Human Services (MDHHS) required all settings to be fully compliant with the rule as of March 17, 2023.

HCBS Requirements

- The final rule set establishes requirements for settings providing Medicaid-funded HCBS.
- CMS delegates the authority and responsibility to MDHHS to ensure settings are compliant and services are delivered consistent with the rule. MDHHS is accountable to CMS to ensure full compliance and to monitor for ongoing compliance with the rule.
- The final rule set creates a more outcome-oriented definition of HCBS settings and services, rather than one based solely on a setting's location, geography or physical characteristics.
- The final rule set maximizes the opportunities for individuals receiving HCBS services to have full access to the benefits of community living and to receive services in the most integrated setting.



HCBS Requirements

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- The final rule includes person-centered planning and HCBS service delivery requirements for residential and non-residential settings that include:
  - ✓ Individual privacy.
  - ✓ The ability to have visitors of their choosing at any time.
  - ✓ Residency agreements and protections.
  - ✓ Choice of setting, providers and roommates.
  - ✓ Freedom of movement within and outside the setting.
  - ✓ Access to food, personal resources and the ability to furnish and decorate their sleeping or living units.
  - ✓ The freedom to control their own schedules and activities.



Characteristics of a HCBS Setting

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An HCBS compliant setting:

- Is integrated in the community and looks like other homes in the neighborhood.
- Supports individuals to participate regularly in typical community life activities outside of the setting to the extent the individual desires. This would include activities with paid staff or unpaid/natural supports.
- Offers variety, ensures the activities reflect the person's interests and allows individuals to interact with others outside of their home.
- Provides opportunities for individuals to seek employment and work in competitive integrated settings, engage in community life and control personal resources.



Settings that are not Considered HCBS

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Settings that are presumed to not meet the HCBS settings requirements are:

- Those located in a publicly- or privately-owned facility providing inpatient treatment.
- Those located on the grounds of, or adjacent to, a public institution.
- Any setting that otherwise has the effect of isolating individuals from the broader community of individuals who are not receiving Medicaid HCBS.
- Settings that are restrictive in nature either physically or through the policies it develops and implements.



Settings that will never be HCBS compliant:

Some settings have been identified by CMS as not HCBS compliant due to the setting's institutional status.

These settings are:

- Nursing facilities.
- Institutions for Mental Disease (IMD).
- Intermediate Care Facility for Individual with intellectual Disability (ICF/IID).
- Hospitals.
- Other locations that have characteristics of an institution (e.g., Child Caring Institutions).



Knowledge Checkpoint

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Which of the following settings are presumed to not meet the HCBS settings requirements? (select all that apply)

A. A privately-owned facility providing inpatient treatment.
B. A residential setting located on the grounds of a public institution.
C. A facility that isolates individuals from the broader community.
D. A group home located in a residential neighborhood.



Knowledge Checkpoint

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Which of the following settings are presumed to not meet the HCBS settings requirements?

A. **A privately-owned facility providing inpatient treatment.**
B. **A residential setting located on the grounds of a public institution.**
C. **A facility that isolates individuals from the broader community.**
D. A group home located in a residential neighborhood.



HCBS Final Rule: Requirements for Residential Settings

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- The requirements for residential settings apply to provider-owned or controlled settings. This includes private homes where the individual does not have a choice in service providers to live there.
- If it can be shown that an individual is living in a private home with no provider influence, the residence is presumed to be compliant with the HCBS requirements. However, HCBS services and supports provided in the private home must be compliant with the HCBS rule.
- Individuals receiving Medicaid HCBS have the same rights, protections and assurances in all living arrangements as those not receiving Medicaid HCBS. Individuals who are not provided with a Resident Care Agreement and Summary of Residents Rights must have a lease or rental agreement that provides them with the same protection as under local landlord tenant laws.



Key to Implementation of the Final Rule

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- Person-Centered Planning (PCP) is key to achieving the intent of the Final Rule at the level of the individual receiving HCBS.

- CMS specifies that service planning for participants in Medicaid HCBS programs must be developed through a PCP process that addresses health and long-term support and service needs in a manner that reflects individual preferences and goals.



Key to Implementation of the Final Rule

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- Service providers should have a copy of everyone's IPOS on site and should review the IPOS to ensure the following:
  - ✓Any restrictions on a person's freedom must be present in the IPOS.
  - ✓The IPOS should reflect interests of the person that can be used to support community integration activities.
  - ✓Every IPOS must include one or more community integration goal, and providers will be key players in the implementation of this requirement.



Knowledge Checkpoint

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True or False

Individuals receiving Medicaid HCBS have the same rights, protections and assurances in all living arrangements as those not receiving Medicaid HCBS.



Knowledge Checkpoint

MDHHS
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True or False

Individuals receiving Medicaid HCBS have the same rights, protections, and assurances in all living arrangements as those not receiving Medicaid HCBS.

True



PART 3:

HCBS Compliance Roles and Responsibilities

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BSBHS and BCCHPS

- MDHHS' Bureau of Specialty Behavioral Health Services (BSBHS) combines Michigan's Medicaid office, services for aging adults and community-based services for adults with I/DD, serious mental illness (MI) and substance use disorders (SUD) under one umbrella within MDHHS.

- BSBHS is responsible for promulgating Medicaid policy and implementing administrative policies and procedures for Medicaid.

- The Bureau of Children's Coordinated Health Policy and Supports (BCCHPS) enhances access and provides oversight of behavioral health services for children who receive Medicaid.

BSBHS and BCCHPS (continued)

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Both administrations establish the policy directions and standards for the statewide system including Community Mental Health Services Program (CMHSP) services for children and adults, substance abuse prevention and treatment, autism services and problem gambling addiction services.

MDHHS contracts with Prepaid Inpatient Health Plans (PIHP) to provide behavioral health services to Michigan residents. The contract outlines the requirements related to the function of the PIHP and the PIHPs responsibilities related to the functioning of CMHSPs.



PIHP HCBS Compliance Monitoring

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Oversight and Accountability: PIHPs play a critical role in monitoring compliance with HCBS standards, including regular audits and reviews of provider performance to ensure adherence to federal and state requirements.

Review and Approve Plans: PIHPs are tasked with ensuring that IPOS developed by CMHSPs meet HCBS requirements, including the documentation and justification of any modifications or restrictions implemented for health and safety reasons.

Corrective Actions and Performance Improvement: When issues of non-compliance are identified, PIHPs work with CMHSPs and providers to implement corrective actions and improve service quality, ensuring services are delivered in accordance with HCBS requirements.

CMHSP HCBS Compliance Monitoring

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Ensuring Compliance: CMHSPs are responsible for ensuring HCBS settings meet all federal and state requirements, including privacy, dignity, freedom of choice and integration into the broader community.

Ongoing Evaluation: CMHSPs must regularly monitor and assess services to confirm compliance with HCBS rules, especially regarding any restrictions in service delivery, which must be justified and documented in the IPOS.

Corrective Actions: When issues of non-compliance are identified, CMHSPs take corrective actions to align services with HCBS standards and support participant rights.

CM/SC HCBS Compliance Monitoring

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Monitoring for Quality and Compliance: Case Managers/Supports Coordinators (CM/SCs) regularly monitor the implementation of services to ensure compliance with HCBS Final Rule requirements. This includes ensuring services promote integration into the community and do not restrict individual rights unless the required modification requirements have been fulfilled in the individuals IPOS.



Progress Review and Reporting: CM/SCs are responsible for tracking and documenting the individual's progress toward the goals outlined in the IPOS. They report on outcomes and make timely adjustments to the IPOS to reflect any changes in needs, preferences or circumstances.



CM/SC HCBS Compliance Monitoring

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Ensuring Accountability: CM/SCs ensure service providers are delivering high-quality care in accordance with HCBS standards. They are also responsible for identifying and addressing any areas of concern or non-compliance.



Service Documentation: CM/SCs ensure activities are consistently documented and that the quality of services and supports, as well as the individual's health and safety, are regularly monitored.

Collaboration is Essential for Achieving Compliance

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Achieving compliance with the HCBS Final Rule set involves a diverse group of stakeholders, each playing a specific role, including:

- The individual and their family member or support network.
- Direct care workers & supervisors
- Individual providers and provider agencies.
- Community partners.
- CM/SCs.
- CMHSP and PIHP quality and contract oversite staff.
- MDHHS HCBS staff.
- MDHHS site review staff.



Framework for Collaboration

Ensuring Access to Services: The collaboration between CMH, PIHPs, CM/SCs and providers is essential in helping individuals access necessary services that promote recovery, health and well-being.

Joint Responsibility: CMHSPs, PIHPs, CM/SCs and providers work together to reduce barriers, ensure individuals have access to the appropriate services and advocate for the resources needed to support independence and integration into the community.

Ensuring Access to the Community: Collaboration between individuals, their families and supports, and community partners focus on ways to ensure the individual is not isolated but has the access desired by the person to participate in community life to the extent and in the manner, they desire.

Holistic Approach: This collaborative framework ensures individuals receive a comprehensive approach to care, where mental health, medical and social supports are coordinated and continuously monitored for quality and effectiveness.

Monitoring Compliance

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CMHSPs and PIHPs are responsible for ensuring service providers comply with Medicaid requirements and quality standards. CM/SCs collaborate with service providers to ensure services align with the goals and objectives in the IPOS.

CM/SC Involvement: Through ongoing monitoring and coordination, CM/SCs ensure services provided meet the individual's needs while adhering to HCBS standards.

CMH/PIHP Oversight: CMHSPs and PIHPs ensure that all services meet regulatory and compliance measures, tracking performance and intervening when providers do not meet standards.

Knowledge Checkpoint

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True or False

Providers are responsible for ensuring all staff are fully trained in implementing HCBS and the IPOS.



Knowledge Checkpoint

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True or False

Providers are responsible for ensuring all staff are fully trained in implementing HCBS and the IPOS.

True



PART 4:

Key Elements of the Final Rule That Impact Providers

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Access to Food

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Individuals must have access to food at any time.

Individuals must also have access to food preparation utensils and appliances upon request.



Accessibility

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Each setting must be physically accessible to all individuals residing there so they may function as independently as they wish.

Individuals must have full access to all licensed areas of the home, except as specifically identified in the individual's IPOS.



Freedom of Movement

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Freedom of movement applies to movement *within* the setting and to leaving the setting as desired.

Restrictions must be identified in the IPOS. Providers must not enforce any restrictions/modifications that are not outlined in the IPOS. Restrictions identified only in a behavior treatment plan (BTP) and not included in the IPOS do not meet HCBS requirements.

An individual's freedom of movement should be supported as needed and cannot be restricted without appropriate documentation of the restriction in the IPOS.



Choice of Setting and HCBS Service Providers

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There must be evidence the individual selected where to live from a variety of setting options, including non-disability specific settings. Setting options must be based on the individual's needs and preferences and must be identified and documented in the IPOS.

There must be evidence the individual understood that if they chose to live in the setting, they would be required to accept services from the provider. CM/SCs are required to discuss options with the prospective resident and must document the person's choice in the IPOS.



Choice of Setting and HCBS Service Providers (continued)

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There must be evidence the individual was provided with information about how to choose another provider and the array of options available should the individual want to change setting and/or provider.



Choice of Other Services and Supports

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Individuals must have choices about other service and support providers and where those services are received.

These include both health-care services and other services, such as primary care, podiatry, immunizations, barber/beautician, psychiatric care, etc. There must be evidence the individual was informed they can use private funds for other skilled services.

Settings should support individuals in accessing the community to receive these services as needed and identified in the person's IPOS.



Choice of Roommate

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When possible, individuals must have their choice of roommate.

In many circumstances, there may be limited beds available at the residence. If the individual chooses that setting, they may be choosing to live there without the ability to choose the roommate. Different arrangements may be possible as the individual continues to live in that setting.



Community Engagement

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Individuals must have the freedom and support to control their own schedule and activities.

Supporting Documentation includes:

House and individual calendars.

Progress notes and outing logs.

Frequency of interactions with others as well as refusals to participate.



Community Engagement

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Community activities should reflect the individual's interests, goals and wishes. They should provide opportunity to develop relationships and gain skills in keeping with the individual's goals.



Community Engagement

- Providers must ensure that individuals will have the opportunity to engage in meaningful community-based activities at least twice per week. This is especially critical when individuals need support to access the community.
- Providers will submit outing logs or activity sheets to the case manager/supports coordinator of record monthly unless otherwise agreed upon. These outing logs will include all MDHHS required elements.
- Required elements are:
  - ✓Name of the person.
  - ✓Activity offered.
  - ✓Date of activity.
  - ✓Person participated in activity.
  - ✓Staff person completing the log, initialed by the individual receiving services.



Evictions and Appeals

- Individuals receiving HCBS services must have a lease or other legally enforceable agreement that offers protections against eviction from the setting.
- In many specialized residential settings, this requirement will be met by using the Resident Care Agreement (RCA) accompanied by the Summary of Residents Rights document.
- If an RCA is being utilized, the setting may not check any of the boxes on the form that indicate the person agrees to house rules or to have the licensee manage funds on the behalf of the person.

Evictions and Appeals

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If there is an RCA for the individual, there must also be a Summary of Rights.



An original copy of the Summary of Rights must be on file at the setting. The CMHSP or PIHP may also choose to retain a copy for their records.



House Rules

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- House rules are not permitted. If an RCA is being utilized, the setting may not check any of the boxes on the form that indicate the person agrees to house rules.

- Residents cannot be required to comply with a setting's policy that restricts their freedoms as a condition of living in the home. These are often referred to as setting wide restrictions and the use of these makes a setting noncompliant with the rule and ineligible for Medicaid funding for services provided.

- Settings cannot simply indicate that the person/guardian or others agreed to living in the home knowing restrictions were in place. This will not be found compliant by the CMHSP/PIHP or MDHHS.



Independence and Autonomy

Freedom to Control Schedule, Activities, and Resources.

Individuals must have freedom to control their own schedules, activities and resources to the extent they desire.

If they need assistance to exercise those choices, that assistance should be provided as needed and desired by the individual.

Individuals must be able to control their personal resources.

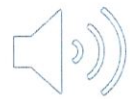
Individuals must have the freedom to furnish and decorate their room however they choose.



Modifications/ Restrictions

All restrictions and modifications must be clearly identified in the IPOS, and where applicable, documented in a clinical health or behavioral assessment. Any modifications must adhere to these requirements:

- Identify and address a specific, individualized health or safety-related need.
- Demonstrate that positive interventions and supports were used before implementing the modification.
- Show that less intrusive methods were tried first.
- Clearly describe the condition and how it directly relates to the specified need.



Modifications/ Restrictions (continued)

All restrictions and modifications must be clearly identified in the IPOS, and where applicable, documented in a clinical health or behavioral assessment. Any modifications must adhere to these requirements:

- Include regular data collection and review to assess the effectiveness of the modification.
- Set established time limits for periodic reviews to determine if the modification remains necessary.
- Include a fade plan that identifies the steps the person can follow to reduce or eliminate the restriction. Fade plans must follow the restriction through to full removal.
- Obtain informed consent from the individual.
- Ensure that interventions and supports will not cause harm.



Modifications/ Restrictions (continued)

All restrictions and modifications must be clearly identified in the IPOS, and where applicable, documented in a clinical health or behavioral assessment. Any modifications must adhere to these requirements:

The presence of a restriction or modification in the IPOS does not impact whether a BTP is required, nor does the existence of a BTP relieve the case manager / supports coordinator of developing HCBS compliant restrictions in the individual's IPOS.

Any restriction on an individual requires HCBS compliant modification in the person's IPOS. These restrictions can only be based upon documented health or safety needs.

No restriction can be placed on a person unless there is an HCBS compliant modification in the plan.

Setting-wide restrictions cannot be imposed without meeting the requirements and documenting the need for imposing the restriction for every individual living in the setting.



Provider's Role in Modification/ Restrictions

If a restriction is in the IPOS, ensure staff are trained prior to implementation.

Provide support and assistance to individuals to understand the restriction.

Don't implement any restriction that is not addressed in the IPOS.



What if a Modification/Restriction Does not Follow HCBS Rule Requirements?

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Contact the CM or SC who is responsible for the IPOS immediately to address this issue and bring the IPOS into compliance.

Reach out to the CMHSP/PIHP HCBS lead if you are asked to implement a restriction against a person's rights improperly. Reach out to MDHHS if other options are not effective.

Funding for services can be denied if the setting implements noncompliant restrictions against a person.



Privacy

- Individuals must be afforded privacy.
- This includes physical privacy as well as keeping the individual's confidential information private.
- Protected health information and other confidential personal information must be stored in a locked area.

Setting Doors

A setting's exit doors must be lockable from the inside and equipped with positive-latching, non-locking-against-egress hardware.

An individual's bedroom and bathroom doors must be able to be locked as desired by the individual.

The bedroom door must have a uniquely keyed lock or keypad code that the individual is able to utilize.

The bathroom can utilize a pop-type lock, and individuals must be able to lock the bathroom door from inside.

Only appropriate staff should have access to an individual's bedroom door key.



Visitors

Individuals must be allowed to have visitors of their choosing at any time.

Settings cannot set visiting hours and cannot impose specific times of the day when visitors are or are not allowed.

Settings cannot require searches of visitors or require specific permission to have visitors.

Settings may not require visitors to sign in or check any items when they arrive.



Visitors

Families and friends may visit residents setting-wide, including their bedrooms.

Restrictions to an individual's freedoms, including access to visitors, can only be enacted based upon a documented health and/or safety need and must be fully compliant with the HCBS rule through the IPOS.



Knowledge Checkpoint

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Under the HCBS Final Rule, individuals' rights to civil rights, privacy, dignity and choice in services can only be restricted under certain circumstances. Which of the following conditions must be met for such a restriction to be justified?

A. The restriction only needs to be included in the service provider's policies.
B. The restriction must be identified and justified in the IPOS.
C. The restriction is based on health and safety reasons with evidence provided.
D. The restriction must meet federal requirements as outlined in the Medicaid Provider Manual and be included in an HCBS compliant IPOS.



Knowledge Checkpoint

MDHHS
Michigan Department of Health & Human Services

Under the HCBS Final Rule, individuals' rights to civil rights, privacy, dignity, and choice in services can only be restricted under certain circumstances. Which of the following conditions must be met for such a restriction to be justified?

A. The restriction only needs to be included in the service provider's policies.
B. **The restriction must be identified and justified in the IPOS.**
C. **The restriction is based on health and safety reasons with evidence provided.**
D. **The restriction must meet federal requirements as outlined in the Medicaid Provider Manual and be included in an HCBS compliant IPOS.**



Knowledge Checkpoint

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Which of the following are restrictions? (select all that apply)

A. Individuals are prevented from having alcohol.

B. Individuals do not have access to food outside of meals.

C. Individuals cannot have visitors in their bedroom.

D. Individuals are served meals at specific times.



Knowledge Checkpoint

MDHHS
Michigan Department of Health & Human Services

Which of the following are restrictions?

A. **Individuals are prevented from having alcohol.**

B. **Individuals do not have access to food outside of meals.**

C. **Individuals cannot have visitors in their bedroom.**

D. Individuals are served meals at specific times.



Knowledge Checkpoint

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Which of the following provide evidence to show community engagement and participation in activities reflect the individual's wishes, choices and preferences? (Select all that apply)

A. Where activities/events took place (e.g., in the home or a specific setting elsewhere).
B. Whether the individual participated.
C. Information about the nature and extent of the individual's interaction with others, including those not receiving services.
D. Provide a description of the individual's response/reaction to the activity.



Knowledge Checkpoint

MDHHS
Michigan Department of Health & Human Services

Which of the following provide evidence to show community engagement and participation in activities reflect the individual's wishes, choices and preferences?

A. **Where activities/events took place (e.g., in the home or a specific setting elsewhere).**
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C. **Information about the nature and extent of the individual's interaction with others, including those not receiving services.**
D. **Provide a description of the individual's response/reaction to the activity.**



Questions?

Contact:
HCBSTransition@Michigan.gov

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MDHHS-Pub-2246 (8-25)

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You have completed the Training!

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