

Who is required to have a Residency Agreement?

Providers of Home and Community-Based Services (HCBS) in residential service settings must have a written agreement with individuals residing in the homes. The settings where a Residency Agreement is required include:

- 24-Hour Residential Service Settings (kids and adults)
- Adult Foster Care
- Children's Foster Care
- Supported Living- when the service provider owns, rents, or leases the home where the individual resides

When must a provider have a Residency Agreement in place?

New providers applying for a license or certificate must submit a copy of their Residency Agreement as part of their application packet.

Existing providers (those licensed before 1/1/16) have time to incorporate Residency Agreements as part of their standard practices as they work towards full compliance with the new Home and Community-Based requirements by 9/1/18.

Is there a required form?

No, there is not a specific required form for providers to use. The Residency Agreement must be a written document and include specific information. The following questions address content that is required or may be contained in the document.

For children, the Residency Agreement requirements are being addressed in an updated version of the Placement Agreement.

What information is required in a Residency Agreement?

The following must be included in a Residency Agreement:

- Reasons for which an individual may be asked to move out
- Minimum of 30 day notification for exit notices
- Notification of the individual's appeal rights when they are asked to move out
- Conditions when a provider may give less than a 30 day notice
- Signature of the individual (or the individual's legal representative)*

*In situations where an individual does not have a legal representative and the individual is unable to sign the Residency Agreement, an ISP team member other than the provider may

sign the document, indicating that the provider's policies were attempted to be presented to the individual and the agreement was reviewed by the individual's support team.

The requirements listed above must align with the exit language for the type of setting being operated. The following rules apply:

- Adult Foster Care (DD licensed)- 411-360-0190
- 24-Hour Residential Service Settings- 411-325-0390
- Supported Living- 411-328-0790
- Children's Foster Care- 411-346-0180(4)

For DD licensed adult foster care, additional information must be included in the Residency Agreement, per OAR 411-360-0055(3):

- Notification of the individual's right to furnish and decorate their bedroom
- Policies related to:
 - Designated smoking areas
 - Use and presence of medical marijuana
 - Pets
 - Monthly charges and services to be provided
 - Refunds in case of departure or death

What may not be included in a Residency Agreement?

- Residency Agreement may not require deposits or impose fines, fees, or penalties on Medicaid-funded individuals.

Additionally, Residency Agreements may not contain policies or support practices that are more restrictive than conditions commonly included in a landlord/tenant agreement.

Conditions and policies in a Residency Agreement may not violate individual rights nor conflict with standards of Home and Community-Based Services (HCBS). Examples of conditions or policies that are not allowed include, but are not limited to:

- Visiting hours
- Restricting individuals to rooms during specific hours, or imposing bedtimes
- Restriction of access to common areas of the home
- Restricting what or when an individual may eat
- Requiring an individual have specific services such as employment or day services
- Requiring activities such as church attendance or group outings
- Requiring the individual be away from the home

The Residency Agreement is not the place to include individual-specific structures, strategies, or limitations. Individuals who require specific supports, including limitations, may have these addressed and included in their person-centered service plan.

What are other policies or conditions that may be included in the Residency Agreement, but are not required?

Providers may include operating policies and practices in the Residency Agreement that are consistent with customary landlord/tenant agreements and that do not conflict with individual rights or Home and Community-Based Services (HCBS) standards.

Examples of commonly included conditions in a Residency Agreement, include, but are not limited to, policies related to:

- Smoking
- Marijuana/Cannabis- both medical and recreational**
- Pets
- Visitors- check-in, accommodations, sleeping arrangements, etc.
- Use of nails, painting, and/or modifying the home
- Weapons

**The provider and individual must adhere to all applicable rules and regulations related to the use and storage of cannabis in or on the grounds of the home, including Oregon Revised States (ORS), Oregon Administrative Rules (OAR), and Federal Law.

Additional guidance:

Whether a provider is submitting a Residency Agreement as part of an application for license or certification or implementing a Residency Agreement as part of the transition to HCBS compliance, the Residency Agreement must be complete enough to reflect the specific policies of the home. Providers are permitted to use pre-made templates to function as a Residency Agreement, however, the provider must indicate the specific policies for the home in order for ODDS, OLRO, CDDP, or Regional staff to determine if the Residency Agreement complies with Home and Community-Based standards.

For more information about Home and Community-Based Settings (HCBS) requirements and Oregon's Transition plan to comply with the new Federal Medicaid regulations, please visit the HCBS website at:

<http://www.oregon.gov/DHS/SENIORS-DISABILITIES/HCBS/Pages/index.aspx>

For additional questions related to Residency Agreements, you may contact your licensor or certifier for assistance.

Questions may also be directed to the HCBS email box- HCBS.Oregon@state.or.us