Adult Foster Home Provider Alert

Policy updates, rule clarifications and announcements

Date: August 10, 2015

Topic: **Information and Preparatory Guide for Adult Foster Home Providers about Home and Community-Based Services Rules**

To: APD (Older Adults and Adults with Physical Disabilities)
Adult Foster Home Providers

The information attached to this Alert provides you with important information about the new Federal Home and Community-Based Service (HCBS) Rules. Please use this guide to get an idea of how the new rules will affect your adult foster home.

DHS | Oregon Department of Human Services

Federal Home and Community Based Services (HCBS) Rules
An Information and Preparatory
Guide for Oregon Adult Foster Home Providers

What are the new Federal Home and Community Based Service Rules?
In January of 2014 the Federai agency Centers for Medicare and Medicaid Services released new HCBS rules that all states must follow in order to participate and receive funding in the Medicaid Program. These rule changes will affect many different providers of HCBS services, including all Adult Foster Home (AFH) providers. These rule changes affect you even if you serve only private pay individuals. This Guide is intended to provide some basic information about the new rules and assist AFH providers identify changes they may need to make.

How do I use this Guide?
This Guide will cover several of the HCBS new rule themes. Following each heading, a description is provided that illustrates some key expectations as outlined in the new federal rules. Descriptions are written from the perspective of how the individual resident experiences the care and services you provide. After reading each description, you should ask yourself the following questions:

1. How accurately does the description and expectations fit with how I operate my home?
2. If the description differs from my operation, what must I change to fit the new regulations?

Answering these questions will give you a good idea of how much the new rules will affect your particular AFH.

<u>Key Expectations*</u>

The residential setting is integrated with and supports full access to the greater community and does not isolate individuals
Individuals have full access to the community. The AFH setting services include community access. Individuals have regular opportunities to engage in the broader community. Individuals are not isolated, and have regular opportunities to interact with people with and without disabilities beyond AFH staff. For example, going to the park, shopping, attending community events and activities (movies, fairs, club meetings, church events, etc.), or going to a barber or beauty shop for hair care if desired.

The individual controls his/her own schedule
Individuals are able to control their own schedules. Services, such as mealtimes and bathing, are flexible and work around the individual's personal schedule. Requests for engaging in the broader community, such as going shopping or to the movies, are routinely supported and accommodated. Providers do not set the time when residents need to get up or go to bed. When individuals work, their schedules are supported.

Personal Finances (Resources)
The AFH provider places no limitations to an individual's, or their designated representatives, ability to access personal financial resources (personal spending monies, personal property, real estate, assets, savings, etc.). Personal resources may be safeguarded, but individuals have easy access to, experience no barriers, and are supported in obtaining and using personal resources, as desired.

Communication
Individuals are able to communicate freely. There are no limitations to the individual's ability to communicate within the residential setting or with those outside of the setting. If the individual needs a phone, other accommodations, or other communication tools, they are provided one and a private space from which to hold conversations. Individuals can access the phone independently at any time and will be supported, if needed. Inside the residential setting, individuals are encouraged and supported to raise and discuss issues or concerns without fear of retaliation.

Homelike Accommodations
Individuals have full access to typical homelike accommodations such as a kitchen, dining area, family/living room, laundry, and bathroom.

Personal Privacy
All individuals have locks available to them for use on their bedroom doors. Door locks are single-action, which means when the individual turns the handle or lever the door unlocks. All individuals have bathroom facilities that allow for complete privacy through the ability to lock the door or stall. Bathing areas are private and individuals are shielded or protected from others walking in on or by them. In addition to the individual, only appropriate AFH staff have keys.

Freedom to Furnish and Decorate
Individuals may bring their own furnishings and are supported and encouraged to personalize their space. Individuals may secure pictures to walls or use accessories, as needed or possibly paint their room a different color. There may be landlord/tenant type agreements regarding approval of painting, nails or holes in walls, but the individual experience is that obtaining necessary permissions is reasonable and does not inhibit their personal style or ability to decorate.

The individual has access to food at any time
Individuals are provided three nutritious meals and two snacks a day. Individuals may assist with menu planning and their personal preferences are considered. If an individual misses a meal, alternatives such as a to-go sack meal or heatable meals, are available. Individuals have

access to personal food storage, including refrigeration, freezer, and dry storage, that they can access at any time.

The individual can have visitors of their choosing at any time

Individuals may have visitors of their choosing at any time. Individuals living in the AFH understand there are no residential setting/provider-imposed limits to the time when visitors may be received. Individuals are encouraged and supported to have visitors. Visitors are respectful of the rights of others living in the Adult Foster Home. Visiting is not staying indefinitely, and not a mechanism for the person to move into the AFH under the premise that they are visiting.

Freedom from Coercion

Individuals are free from coercion as defined below:

- **i.** Threats of serious harm to or physical restraint against any person;
- **ii.** Any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or
- **iii.** The abuse or threatened abuse of the legal process.

The provider/staff do not utilize any of the following restraints on individuals receiving services in this residential setting:

- Chemical restraints
- Mechanical restraints, such as devices that limit an individual's ability to freely move their body, not part of the person's formal behavior support plan
- Physical restraints, such as using a physical maneuver to limit an individual's ability to freely move, where the maneuver is weight-bearing and/or not part of the person's formal behavior support plan
- Seclusion, such as restricting an individual to a specific physical space as a means of controlling behavior or in response to a behavior

Choice of Roommates/Sharing Space

[*This section is only applicable if there are shared bedrooms.]* There are methods in place for individuals to seek a new roommate should they desire one. It may be possible and feasible to change roommates within the house if all agree or the individual may decide to move to have a different roommate. Individuals have the opportunity to meet new, potential roommates and have input in the selection of their roommate.

Employment

For individuals who want to work, the AFH provider supports the individual's opportunities to seek employment and work in integrated settings for competitive wages (minimum wage or

better). Working individuals who live in this residential setting have supports from the provider in planning and meeting their daily needs in order to access and maintain employment.

IMPLEMENTATION

When do AFH providers need to meet the new rule expectations?
Oregon has requested a transition period for Oregon's HCBS providers, which ends in March 2019. However, providers should begin learning about and adapting to the new rules now. New Oregon rules are being written and will become effective January 2016. In addition, a series of important upcoming HCBS events are detailed and scheduled in ***Oregon's Home and Community Based Settings and Services Global Transition Plan*** that are intended to support all HCBS providers, including AFH providers, successfully transition to the new rules. Some of these events include a survey of providers and residents and the development of individual AFH adaptation plans for those providers that are not yet meeting these rule expectations.

Ultimately, all providers will need to be in substantial compliance with these rules by the fall of 2018 in order to have adequate time to move individuals, should any HCBS provider be unable or unwilling to meet the new rule expectations. We value all of our AFH providers and would like to offer the help and support to successfully meet the new HCBS rule expectations. This Guide is one method of providing that information and support.

How can I get more information about the HCBS rules?
This Guide cannot possibly cover all questions a provider may have about the HCBS rules. To provide a resource for additional information, there is a website that includes Oregon specific information. The Oregon HCBS website includes ***Oregon's Home and Community Based Settings and Services Global Transition Plan,*** HCBS Fact and Information sheets, as well as a Frequently Asked Questions (FAQ) section and Links to other websites, including the Federal Rules website. http://www.oregon.gov/dhs/seniors-disabilities/HCBS/pages/index.aspx

If you have additional questions regarding the HCBS rule changes you may email DHS at HCBS.Oregon@state.or.us.

*Limitations due to health and safety may be appropriate for some individuals as determined on an individual basis as part of the individual's person centered plan and with their consent.