

POLICY AND PROCEDURE

<u>POLICY TITLE:</u> CMS Rules for HCBS Residential Settings	<u>POLICY #:</u> DSAMH046
<u>PREPARED BY:</u> Wynne Hewitt	<u>DATE ISSUED:</u> 1/9/23
<u>RELATED POLICIES:</u>	<u>REFERENCE:</u> https://www.medicaid.gov/medicaid/home-community-based-services/guidance/home-community-based-services-final-regulation/index.html
<u>DATES REVIEWED:</u>	<u>DATES REVISED:</u>
<u>APPROVED BY:</u>  1/16/2023 9:26 AM PST	<u>NOTES:</u> <input type="checkbox"/> DSAMH Internal Policy <input type="checkbox"/> DSAMH Operated Program <input checked="" type="checkbox"/> DSAMH State Providers <input type="checkbox"/> Delaware Psychiatric Center <input type="checkbox"/> Targeted Use Policy (Defined in scope)

- I. **PURPOSE:** Centers for Medicare & Medicaid Services (CMS) has given States until March 17, 2023, to bring Medicaid programs into compliance with “Home and Community-Based Settings (HCBS) Rules.” CMS requires states to submit evidence demonstrating that these settings will provide a home-like environment that supports full integration into the community. Residents in HCBS settings shall be afforded the same rights and opportunities as those living independently in the community. DSAMH PROMISE Community Based Residential Alternative Programs currently meet the CMS definition of requiring “Heightened Scrutiny.” This includes all DSAMH HCBS residential funded programs, including current Mental Health Group Homes (Tiers III – V), and any future Community Based Residential Alternative Programs (Tier I-II), if supported by HCBS funding.
- II. **POLICY STATEMENT:** DSAMH supports the Federal Requirements for HCBS Settings. Failure to meet these requirements will result in loss of Federal funding for HCBS. PROMISE Leadership will work with contracted providers to ensure compliance and swift remediation when required.
- III. **DEFINITIONS:** N/A
- IV. **SCOPE:** These federal standards apply to all PROMISE Community Based Residential Alternative Programs.
- V. **RESPONSIBILITIES/PROCEDURES:**
- A. HCBS settings must:
1. allow the individual to choose between available options for services and providers;

2. ensure rights of privacy, dignity, respect, and freedom from coercion and restraint;
 3. optimize an individual's autonomy and independence in making life choices;
 4. facilitate an individual's informed choice about their services and who provides them;
 5. be physically accessible to the individual;
 6. provide freedom and support for the individual to control their own schedules and activities;
 7. provide the individual access to food when desired (meals and/or snacks);
 8. provide access to visitors at any time.
- B. Exceptions: The criteria listed in Section A.6 through A.8 above are the only ones that may be changed or modified, and only on a case-by-case basis for a specific individual. For an exception to be made, there must be:
1. *a specific need* that has been identified for which the person requires staff support (a diagnosis alone is not enough information to support a modification);
 2. a time-limited basis for the exception, with a need to reassess periodically to see if the modification is still needed;
 3. attempts for less restrictive and more positive approaches that were tried, documented, and found to be unsuccessful; and
 4. individual exceptions must be clearly documented in the resident's clinical record and recovery plan. They shall be updated during each recovery plan review.
- C. Contracted PROMISE HCBS Programs will conduct self-assessments at least annually and provide results of self-assessments and any needed remediation plans to PROMISE Assessment Center Administrator.
- D. Contracted PROMISE HCBS Programs will balance the resident's autonomy with the safety of the individual, other residents, and staff at the residential setting:
1. Residents will have freedom and support to control their own schedules and activities, unless a detailed exception is documented, as explained above.
 2. Residents will have access to food (meals and/or snacks) and visitors, at any time, unless a detailed exception is documented, as explained above in V.B.
 - a. HCBS Programs must promote integration into the community, including encouraging visitation.
 - b. As an absolute rule, visitation must not be restricted in any way for any residents.
 - c. Programs may work with residents to ensure their right to have visitation is both respected and balanced with the needs of other residents in the home. This may include suggested quiet times, as well as limiting access to other areas of the residence that may impose on other residents' privacy.
 - d. Program visitation guidelines should be posted and should provide ample opportunity for exceptions.
- E. PROMISE Leadership shall assess HCBS Programs as follows:
1. Initial assessment for all existing programs by November 15, 2022;
 2. Within three months of any new PROMISE HCBS Program being established;
 3. At least annually, or when one of the following occurs:
 - a. Resident grievance;
 - b. Community complaint;
 - c. PROMISE Care Manager Monitoring form (rated 3 or higher);

- d. Notification of concern from DSAMH Quality Assurance or Risk Management team; or
 - e. Notification of concern from Delaware Division of Healthcare Quality (DHCQ).
4. PROMISE Leadership will oversee data collection and remediation action steps for all PROMISE HCBS Programs, as needed.
 5. PROMISE Leadership will provide monthly meetings to PROMISE HCBS Programs to promote continued refinement and excellence with the HCBS settings rule.

VI. POLICY LIFESPAN: This will be reviewed annually.

VII. REFERENCES/RESOURCES: N/A