Medicaid 201
Home and Community-Based Services Settings Rule:
Participants Right to Privacy, Choice of Visitor, and Access to Food

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Objectives

Understand the intent of the Final Rule
Understand specific setting requirements and how it will affect your home
- Participant right to personal privacy
- Participant choice related to visitors
- Participant right to access food
Know resources for the Final Rule
Intent of the Final Rule

Ensure full access to community living
Opportunity to receive services in the most integrated settings
Enhance the quality of home and community based services
Provide protections to individuals
Intent of the Final Rule

Participants are not isolated
Have opportunities to interact with people with and without disabilities beyond foster home staff
42 CFR 441.301 (c)(4)(vi)(B)(1)
Right to Personal Privacy

Can a participant choose to have a lockable door?

YES  NO  MAYBE
Can you close and lock the bedroom door?

- Yes: Participant (40%), Provider (40%), Validation (20%)
- No: Participant (40%), Provider (40%), Validation (20%)
- Did Not Answer: Participant (20%), Provider (20%), Validation (20%)
Participants

- Can have privacy in the bedroom, living unit, or bathroom
- May choose not to have a lock on the bedroom, living unit, or bathroom door
- May choose to not use the lock on the bedroom, living unit, or bathroom door
- Will decide who will have keys
42 CFR 441.301 (c)(4)(vi)(B)(1)  
Right to Personal Privacy

Providers
- Need to supply a door lock for the bedroom or living unit
- Only the provider and necessary staff will have keys

Door locks must:
- Be single action. This means the door must unlock when you turn the handle or move the lever to leave to allow for easy exit
- Meet state codes and safety standards
- Meet State rules and regulations
42 CFR 441.301 (c)(4)(vi)(B)(1)
Right to Personal Privacy
Right to Personal Privacy
42 CFR 441.301 (c)(4)(vi)(B)(1)
Right to Personal Privacy
42 CFR 441.301 (c)(4)(vi)(B)(1)
Right to Personal Privacy

NO!
42 CFR 441.301 (c)(4)(vi)(B)(1)
Right to Personal Privacy
Right to Personal Privacy- Limitations

There may be times that the assessed needs provide reason to consider some limits to locks on doors.

Limitations will not be used without the participants (or authorized representative’s) informed consent.

Limitations will only be used where there is a health and safety risk and shall be documented in the person-centered plan.
Can a participant choose who visits and when?

YES  NO  MAYBE
42 CFR 441.301 (c)(4)(vi)(D) Choice of Visitor

Participants
- Can decide who visits
- May choose to arrange what day and time
42 CFR 441.301 (c)(4)(vi)(D)
Choice of Visitor

Providers
- Must support the participants right to have visitors
- Must allow visitors in the living unit or in common areas
- If the home is shared with other participants, other preferences must be taken into consideration and respected
- May have limits on the amount of time a visitor can stay based on a mutual agreement and the agreement must be documented
42 CFR 441.301 (c)(4)(vi)(D)
Choice of Visitor

Providers
- Can put procedures in place to support health and safety
  - Must be reasonable
  - Must not prevent participants from having visitors

Examples:
- Providers may have a visitor check in when they come to visit
- Providers may help participants plan for after-hours visits
There may be times that your assessed needs provide reasons to consider some limitations to having visitors.

Limitations will not be used without the participants (or authorized representative’s) informed consent.

Limitations will only be used when there is a health or safety risk and shall be documented in your person-centered plan.
42 CFR 441.301 (c)(4)(vi)(C) Access to Food

Can a participant choose what to eat and when?

[Image with emojis: Yes, No, Maybe]
How is Hawaii doing on Choice?
Residential Survey Results

Do you choose what you want to eat?

- **Yes**
  - Participant: 70%
  - Provider: 70%
  - Validation: 80%

- **No**
  - Participant: 20%
  - Provider: 20%
  - Validation: 10%

- **Did Not Answer**
  - Participant: 0%
  - Provider: 0%
  - Validation: 0%
42 CFR 441.301 (c)(4)(vi)(C)
Access to Food

Participants
- Have the freedom to access food at anytime
- May choose when and where they would like to eat
- May choose the kinds of foods they want to eat
- Are not limited to specific meal times
Providers
- Must make efforts to provide meals that meet standards for home-based meals
- Must consider the cultural and preferences of the individual
- Do not have to provide items that are very costly or difficult to prepare
- Do not have to provide limitless supply of snacks or items around the clock
- Are expected to support and allow access to foods
Access to Food

Examples:

- Providing alternative food choices when the main meal option is not preferred
- Providing alternative food choices when not eating at a standard meal time
- Assisting with healthy eating choices without controlling or discounting preferences
- Assisting with budgeting and shopping for personal food and snack items
- Assisting with safe storage for personal foods and snack items
Access to Food

• Does not mean you have access to full dining services or meal preparation at all times

• Do need to help identify which items are available in shared kitchens or designated storage spaces so there is access food at any time.
42 CFR 441.301 (c)(4)(vi)(C)
Access to Food- Limitations

There may be times that your assessed needs provide reasons to consider some limitations to having access to food at any time.

Limitations will not be used without the participants (or authorized representative’s) informed consent.

Limitations will only be used when there is a health or safety risk and shall be documented in your person-centered plan.
Think about it!

Does the guidance fit with how I operate my home?

If the guidance differs from my home operation, what must I change to meet the new requirements?
Big Tent- Public Discussion Board

https://www.bigtent.com/groups/mcmwhi

Search Group Name: MCMWHI
For More Information

Hawai‘i Department of Human Services
Med-QUEST Division
My Choice My Way, HCBS Transition Plan

NEW Med-QUEST Website: https://medquest.hawaii.gov/
Search: My Choice My Way

MCMW Specific Website:

Email: mychoicemyway@dhs.hawaii.gov
For More Information

More information about the final regulation is available:

https://www.medicaid.gov/medicaid/hcbs/

All Providers need to know their requirements regarding compliance with the HCBS Final Rule. More information about the final regulation is available:

Questions?

I have a Question!
thank you