



# 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

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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

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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

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*Can a participant choose to have a lockable door?*



**YES**



**NO**

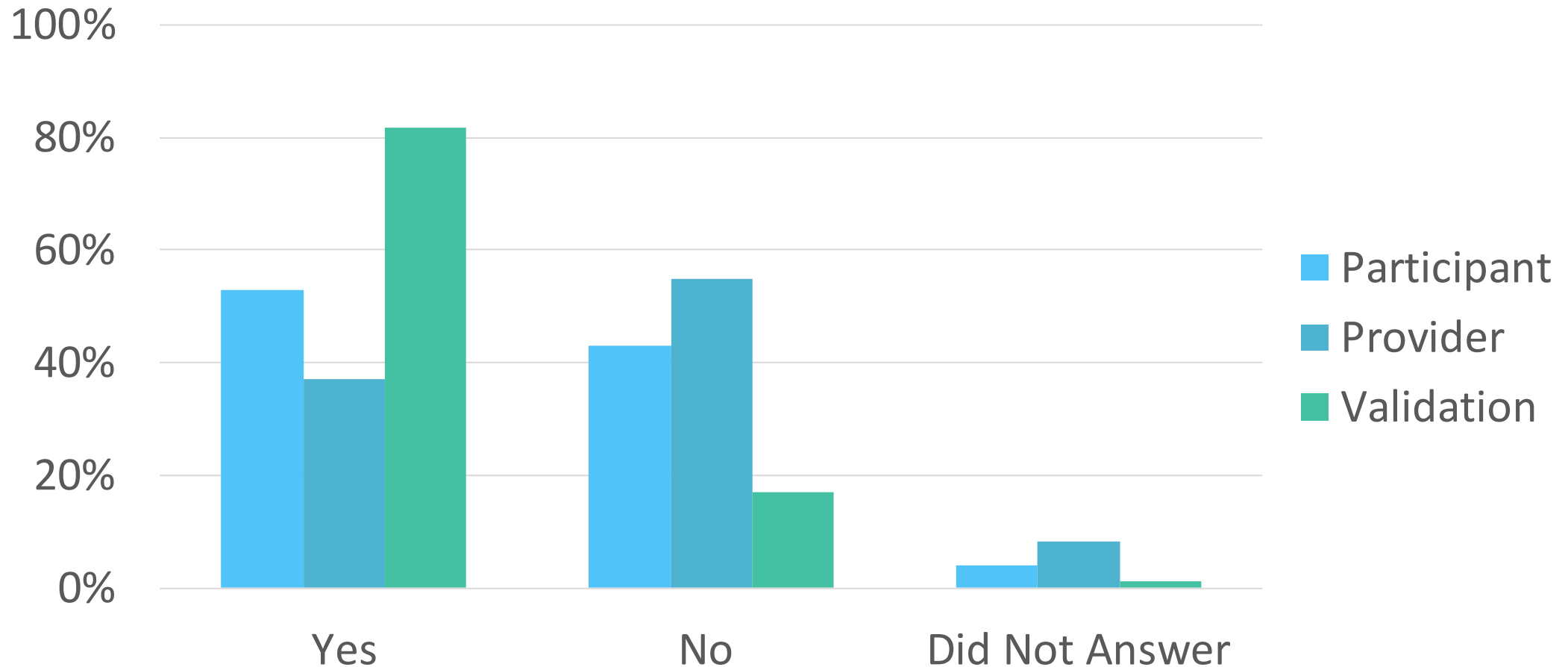


**MAYBE**





# Can you close and lock the bedroom door?





# 42 CFR 441.301 (c)(4)(vi)(B)(1)

## Right to Personal Privacy

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### 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

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### 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

Yes!



# 42 CFR 441.301 (c)(4)(vi)(B)(1) Right to Personal Privacy

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Yes!





# 42 CFR 441.301 (c)(4)(vi)(B)(1) Right to Personal Privacy

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Yes!

# 42 CFR 441.301 (c)(4)(vi)(B)(1) Right to Personal Privacy

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# 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- Limitations

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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.

# 42 CFR 441.301 (c)(4)(vi)(D)

## Choice of Visitor

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*Can a participant choose who visits and when?*



**YES**



**NO**



**MAYBE**







# 42 CFR 441.301 (c)(4)(vi)(D) Choice of Visitor

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## Participants

- Can decide who visits
- May choose to arrange what day and time

# 42 CFR 441.301 (c)(4)(vi)(D)

## Choice of Visitor

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### 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

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### 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

# 42 CFR 441.301 (c)(4)(vi)(D)

## Choice of Visitor- Limitations

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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

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*Can a participant choose what to eat and when?*



**YES**



**NO**



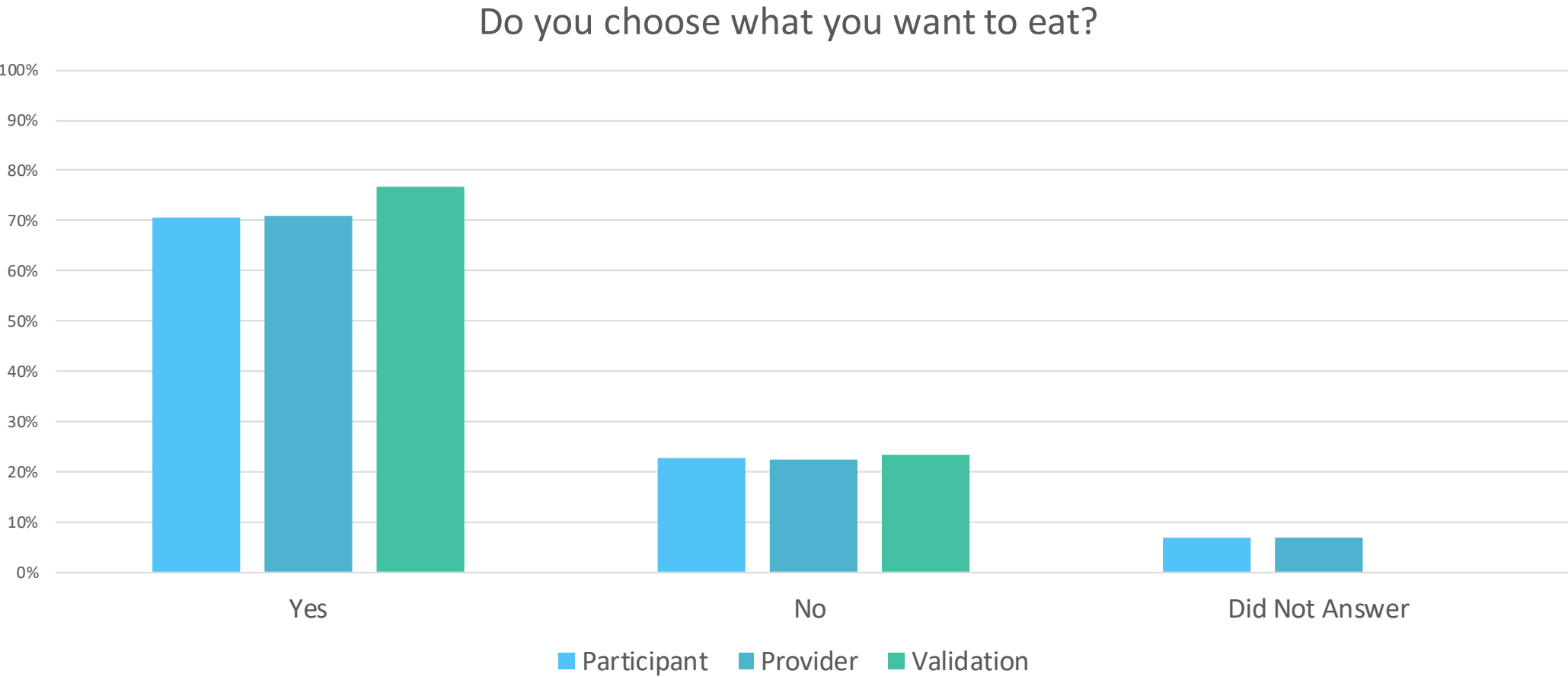
**MAYBE**





# How is Hawaii doing on Choice?

## Residential Survey Results







# 42 CFR 441.301 (c)(4)(vi)(C)

## Access to Food

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### 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

# 42 CFR 441.301 (c)(4)(vi)(C)

## Access to Food

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### 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



# 42 CFR 441.301 (c)(4)(vi)(C)

## Access to Food

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### 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



# 42 CFR 441.301 (c)(4)(vi)(C)

## Access to Food

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- 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

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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!

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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

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

Search Group Name:  
MCMWHI



# For More Information

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**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:**

<https://medquest.hawaii.gov/en/members-applicants/already-covered/my-choice-my-way.html>

**Email:** [mychoicemyway@dhs.hawaii.gov](mailto:mychoicemyway@dhs.hawaii.gov)



# For More Information

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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:

<https://www.medicaid.gov/medicaid/hcbs/guidance/index.html>

# Questions?

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