

Statewide Assessment
Home and Community Based Settings
Policies and Procedures for the Department of Behavioral Health
Mental Health Community Residence Facilities (MHCRF)

| Question | Issue | Oppose/Silent/Positive | # of sites | Remedial Strategy | Lead Agency | Ongoing Monitoring |
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| <p>(a) The setting ensures an individual's rights of privacy, dignity, respect, and freedom from coercion and restraint</p> | <p>The Consumer' Rights Act, including affording residents the consumer rights set forth in Section 204 (D.C. Official Code § 7-1231.04) gives individual's rights of privacy, dignity, respect, and freedom from coercion and restraint.</p> <p>Additionally, Title 22-B DCMR Chapter 38 also addresses these concerns through various consumer centered regulations. The Department's goal is to deliver behavioral health services that promote recovery, respect cultural and linguistic diversity, and are choice-driven through the Mental Health Rehabilitation Services system for community-based care or MHRS. The MHRS system is based on individualized services and supports.</p> <p>Specifically, the MHCRF setting ensures an individual's rights of privacy, dignity, respect, and freedom from coercion and restraint through 22-B DCMR §3801. For example:</p> <p>3801.6 Each resident shall have the right to privacy in the provision of personal and medical</p> | Positive | All | | DBH | Service coordination monitoring, and provider certification review. |

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| | care. | | | | | |
| | 3801.7 Each resident shall have the right to participate actively in the development of the resident's individual treatment plan. | | | | | |
| | 3801.8 Each resident shall have the right to receive adequate and humane treatment by competent, qualified, professional staff. | | | | | |
| | 3801.9 Each resident shall have the right to be informed of his or her condition and progress. | | | | | |
| | 3801.10 Each resident shall have the right to have his or her treatment record and all information contained therein kept confidential in accordance with the Mental Health Information Act, D.C. Code, 2001 Ed. §§7-1201.01 to 7-1208.07, and any other District or federal law that governs treatment records. | | | | | |
| | 3801.13 Each resident shall have the right to visit, in private, with the resident's personal physician, attorney, clergy, family members, friends and other persons of the resident's choice at reasonable times. | | | | | |

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| | <p>3801.14 Each resident shall have the right to send and receive sealed mail.</p> <p>3801.15 Each resident shall have the right to communicate freely and confidentially with the resident's attorney, the courts, the Commission on Mental Health Services (CMHS) Patient Advocate, the Long Term Care Ombudsman, and the organization responsible for protection and advocacy under the Mentally III Individuals Act, 42 U.S.C. §10801 and Part C of the Developmental Disabilities Assistance and Bill of Rights Act, 42 U.S.C. §§ 6041 - 6043, and representatives of the District of Columbia government.</p> <p>3801.20 Each MHCRF shall assist the resident in registering and exercising the resident's right to vote.</p> <p>3801.21 No resident shall have any religious belief or practice imposed upon him or her.</p> <p>3801.22 Each resident shall have the right to participate in social, religious or community activities</p> | | | | | |
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| | <p>that do not interfere with the rights of other residents or cause a substantial disruption to the normal functioning of the residence.</p> <p>3801.26 No research using residents as subjects may be conducted unless the resident consents and the research complies with federal and District laws, rules, and regulations and CMHS policy. A copy of the resident's consent form shall be kept in the resident's record.</p> <p>3831.2 No resident shall be confined in a locked room nor shall he or she be locked in or out of the facility or bedroom at any time.</p> <p>In order to make sure these requirements are being met, Per policy, DBH has a mental health consumer satisfaction survey. Please see: http://dbh.dc.gov/sites/default/files/dc/sites/dmh/publication/attachments/TL86.pdf. DBH rules also specifically includes a robust consumers' grievance process. Please see: http://dbh.dc.gov/sites/default/files/dc/sites/dmh/publication/attachments/DCR8480.pdf</p> <p>Additionally, DBH created the Office of Consumer and Family Affairs, which works to ensure</p> | | | | | |
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| | <p>the rights of people with behavioral illness are protected and to encourage and facilitate consumer and family input into all aspects of an individual's treatment and plan for recovery. Please see: http://dbh.dc.gov/sites/default/files/dc/sites/dmh/publication/attachments/Consumer%20Rights%20Statement.pdf.</p> | | | | | |
| <p>b. The setting optimizes individual initiative, autonomy, and independence in making life choices</p> | <p>Per Title 22-B DCMR Chapter 38, MHCRFs optimize individual initiative, autonomy, and independence in making life choices. For instance,</p> <p>3832.1 Each resident's rehabilitative services shall be provided in accordance with a written Individual Treatment Plan (ITP) and shall be developed with the goal of assisting the resident to achieve and maintain the highest level of self-care, self-esteem, and independence.</p> <p>3832.2 Each MHCRF shall, consistent with the proper care of each resident, maintain as culturally normal routines and procedures as possible, providing for sleeping periods, meal times, social and recreational activities, responsibilities, and resident autonomy similar to the living patterns of independent persons in the</p> | Positive | All | | DBH | Service coordination monitoring, and provider certification review. |

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| | community. | | | | | |
| c. The setting facilitates individual choice regarding services and supports, and who provides them | DBH contracts with community based providers to provide mental health services and supports, including those that work with residents of the MHCRFs. A consumer can contact a provider of his or her choice directly or call the Access Helpline for assistance. DBH certifies each provider to ensure conformity to federal and District regulations and monitors quality of care. | Positive | All | | DBH | Service coordination monitoring, and provider certification review. |
| d.(i) The setting provides opportunities to seek employment and work in competitive integrated settings | DBH requires this by policy. To help ensure that each person is on a pathway to competitive, integrated, supportive employment. Please see: http://dbh.dc.gov/sites/default/files/dc/sites/dmh/publication/attachments/508.1%20TL-250.PDF . MHCRF are specifically bound by Title 22-B DCMR Chapter 38: 3832.5 Each MHCRF shall encourage each resident to engage in daytime activities, such as, but not limited to, education, socialization, psychosocial day programs and employment. | Positive | All | | DBH | Service coordination monitoring, and provider certification review. |
| d. (ii) engage in community life | Under Title 22-B DCMR Chapter 38, MHCRF settings are required to provide opportunities to engage in the community. For instance, 3832.5 Each MHCRF shall encourage each resident to engage in daytime activities, such as, but not limited to, education, socialization, psychosocial day programs and employment. | Positive | All | The new regulations add that each MHCRF shall reasonably accommodate a resident's work or school schedule to ensure meaningful access to community activities. | DBH | Service coordination monitoring, and provider certification review. |

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| | <p>3834.1 Each MHCRF shall provide or arrange for suitable activities sufficient to stimulate and promote the well-being of each resident, to encourage independence and maintenance of normal activities and to maintain and promote an optimal level of functioning.</p> <p>3834.4 Each MHCRF shall provide or arrange for educational and skill building activities, either in or outside the facility, which promote the development of independent living skills for each resident.</p> | | | | | |
| d. (iii) The setting provides opportunities to control personal resources. | Title 22-B DCMR § 3801.25, states that each resident shall have the right to manage his or her own financial affairs unless the resident has a duly appointed conservator, representative payee or guardian. | Positive | All | The new regulations will add that each MHCRF shall obtain written authorization from the resident and the resident's representative or representative payee before handling or managing the resident's personal funds. The authorizations shall be reviewed and signed by the resident and the resident's representative or representative payee at least annually. | DBH | Service coordination monitoring, and provider certification review. |
| e. The setting is integrated and supports access to the greater community | MHCRFs are integrated within DC residential communities so that consumers have supports and access to the greater community. The MHCRF coordinate services with the consumer's chosen provider under Title 22-B DCMR 3833. | Positive | All | | DBH | Service coordination monitoring, and provider certification review. |

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| <p>f. The setting provides opportunities to engage in community life</p> | <p>Per regulations, MHCRFs settings provide opportunities to engage in community life. This is codified at Title 22-B DCMR § 3834.</p> <p>3834.3 To the maximum extent possible, each MHCRF shall use the services of public and voluntary resources in promoting resident participation in activities.</p> <p>3834.4 Each MHCRF shall provide or arrange for educational and skill building activities, either in or outside the facility, which promote the development of independent living skills for each resident...</p> | <p>Positive</p> | <p>All</p> | | <p>DBH</p> | <p>Service coordination monitoring, and provider certification review.</p> |
| <p>g. the setting provides opportunities to control personal resources</p> | <p>According to 22-B DCMR § 3801.25, each resident shall have the right to manage his or her own financial affairs unless the resident has a duly appointed conservator, representative payee or guardian.</p> | <p>Positive</p> | <p>All</p> | <p>The new regulations will add that each MHCRF shall obtain written authorization from the resident and the resident's representative or representative payee before handling or managing the resident's personal funds. The authorizations shall be reviewed and signed by the resident and the resident's representative or representative payee at least annually.</p> | <p>DBH</p> | <p>Service coordination monitoring, and provider certification review.</p> |
| <p>h. The setting provides opportunities to receive services in the community to the same degree of access as individuals not receiving Medicaid HCBS</p> | <p>The MHCRF setting provides opportunities to receive services in the community to the same degree of access as individuals not receiving Medicaid HCBS. Therefore, there is no difference in opportunity to receive services.</p> | <p>Positive</p> | <p>All</p> | | <p>DBH</p> | <p>Service coordination.</p> |
| <p>i. The setting is selected by the individual from among other options including non-disability specific settings and a private unit in a residential setting</p> | <p>Mental health consumers' have choice of providers based on their assessed level of care. Please see DBH policy 300.1: http://dbh.dc.gov/sites/default/files/dc/sites/dmh/publication/attachments/300.1%20TL-268_0.PDF.</p> | <p>Positive, with limitations</p> | <p>All</p> | <p>Since DBH serves the individuals with mental health issues, services must be clinically appropriate and the least restrictive for consumers as assessed through their level of care (LOCC). The individualized level of care assessment determines the mental health consumer's level of functioning and intensity</p> | <p>DBH</p> | <p>Service coordination monitoring, and provider certification review.</p> |

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| | | | | of the services that they will receive. | | |
| j. If provider-owned or controlled, the setting provides a specific unit/dwelling that is owned, rented, or occupied under a legally enforceable agreement. | <p>Per § 3801.3, prior to admission, the resident and the resident’s legal representative, if any, shall be given a written admission contract, which shall be signed by the Residence Director, the resident, or the resident’s legal representative, and that sets forth, at a minimum, the following details:</p> <ul style="list-style-type: none"> (a) The monthly fee payable by the resident; (b) The care and services covered by the monthly fee; and (c) The care and services not covered by the monthly fee and the specific charges for all non-covered services. <p>This contract would be enforceable through D.C. Code §44-1003, which regulates transfers and relocations of consumers.</p> <p>Consumers are also protected from reprisal if they register grievances or complaints about the MHCRF or staff by Title 22-B DCMR § 3801.4.</p> | Positive, but with limitations | All | | DBH | Service coordination monitoring, and provider certification review. |
| k. If provider-owned or controlled, the setting provides the same responsibilities/protections | D.C. Code § 44-1003 regulates the discharge or transfer of residents by a MHCRF. It requires that providers have a | Positive | All | New regulations will specifically state that residents have the same responsibilities and protections from eviction that tenants have under D.C. landlord/tenant law and appeals for | DBH | Service coordination monitoring, and provider |

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| from eviction as all tenants under landlord tenant law of state, county, city or other designated entity | legitimate reason, give notice to the consumer, and allows consumer to appeal to the discharge or transfer. | | | eviction. | | certification review. |
| l. if the setting is provider-owned or controlled and the tenant laws do not apply, the state ensures that the lease, residency agreement or other written agreement is in place providing protections to address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law. | D.C. Code § 44-1003 regulates the discharge or transfer of residents by a MHCRF. It requires that providers have a legitimate reason, give notice to the consumer, and allows consumer to appeal to the discharge or transfer. | Positive | All | New regulations will specifically state that residents have the same responsibilities and protections from eviction that tenants have under D.C. landlord/tenant law and appeals for eviction. | DBH | Service coordination monitoring, and provider certification review. |
| m. If provider-owned or controlled, the setting provides that each individual has privacy in their sleeping or living unit. | The current law and regulations are silent on this issue. | Silent | All | Regulation will be updated to require that each bedroom will have a door lockable by the resident with only appropriate MHCRF staff members having keys to the door. This will allow for privacy in their room. | DBH | Service coordination monitoring, and provider certification review. |
| n. If provider-owned or controlled, the setting provides units with lockable entrance doors, with appropriate staff having keys to doors as needed | The current law and regulations are silent on this issue. | Silent | All | The new regulations will be updated to require that each bedroom will have a door lockable by the resident with only appropriate staff members having keys to the door. | DBH | Service coordination monitoring, and provider certification review. |
| o. If provider-owned or controlled, the setting provides individuals who are sharing units a choice of roommates. | The current law and regulations are silent on this issue. | Silent | All | The new regulations will be updated to reflect 42 CFR 441.301, therefore mental health consumers that share a room will have a choice of roommates when feasible. | DBH | Service coordination monitoring, and provider certification review. |
| p. If provider-owned or controlled, the setting provides individuals with the freedom to furnish and decorate their sleeping or living units within the lease or other agreement. | Title 22-B DCMR §3816.2 requires each MHCRF to permit each resident to bring reasonable personal possessions and furnishings to his or her living quarters in the MHCRF unless the MHCRF can demonstrate that it is not practical, feasible, or safe. | Positive | All | The new regulations will be updated and state that residents shall have the freedom to furnish and decorate their rooms to the extent that is reasonable and does not impact safety. | DBH | Service coordination monitoring, and provider certification review. |
| q. (i) If provider-owned or controlled, the setting provides individuals with | MHCRFs are required to allow residents to control their own schedule as it pertains to when | Positive | All | | DBH | Service coordination monitoring, |

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| the freedom and support to control their schedules and activities | they are at the MHCRF. Residents are not required to participate in day programs, per Title 22-B DCMR §3833.4, but are encouraged to in order to engage in the community and receive supportive services. | | | | | and provider certification review. |
| (ii) If provider-owned or controlled, the setting provides individuals with the freedom and support to access to food at any time | Title 22-B DCMR §3813.3 requires each MHCRF shall serve, provide for, or arrange on a daily basis at least three (3) meals and between meal snacks that meet one hundred percent (100%) of the required daily allowance as defined by the Food and Nutrition Board of the National Academy of Science and are suited to the special needs of each resident, and adjust meals and snacks for seasonal changes, particularly to allow for the use of fresh fruits and vegetables. | Silent | All | <p>The new regulations will also require the MHCRFs to provide the resident with appropriate meals and in between snacks to carry if the resident is away from the MHCRF.</p> <p>The proposed regulations, now in 2nd proposed rulemaking, include the following language:</p> <p>3834.10 Each meal shall be scheduled so that the maximum interval between each meal is no more than six (6) hours, with no more than fourteen (14) hours between a substantial evening meal and breakfast the following day.</p> <p>3834.11 In between designated meal times, residents shall have access to food. If a resident misses a scheduled meal, appropriate food substitutions of comparable nutritional value shall be offered.</p> | DBH | Service coordination monitoring, and provider certification review. |
| r. If provider-owned or controlled, the setting allows individuals to have visitors at any time. | The current law and regulations are silent on this issue. | Silent | All | The new regulations will afford each resident this right. | DBH | Service coordination monitoring, and provider certification review. |
| s. If provider-owned or controlled, the setting is physically accessible to the individual. | Under Title 22-B DCMR §3827.6, no MHCRF shall refuse to make reasonable accommodations necessary to admit or retain a resident who is deaf, blind, non-English speaking, non-ambulatory or otherwise physically or mentally disabled. | Positive | All | | DBH | Service coordination monitoring, and provider certification review. |