

Guidelines/FAQ Home and Community Based Services (HCBS) Settings Rule

The following [Guide to the HCBS Settings Rule](#) is designed to provide clear and concise answers to frequently asked questions about the Home and Community Based Settings Rule. “The HCBS Settings rule ensures that people who receive services and supports through Medicaid’s HCBS programs have full access to the benefits of community living and are able to receive services in the most integrated setting. It protects individuals’ autonomy to make choices and to control the decisions in their lives, a right most people take for granted”. (*Joint Statement from the Centers for Medicare & Medicaid Services (CMS) and the Administration for Community Living (ACL), March 2023*). Whether you are a person supported, family member, caregiver or provider seeking information about [The Settings Rule](#), we hope you find this guide helpful in understanding HCBS settings and promoting quality of life and independence for persons receiving services in these settings.

GUIDE TO THE HOME & COMMUNITY-BASED SETTINGS (HCBS) RULE

People residing in waiver settings have the same responsibilities and protections from eviction (removing you from your home) as tenants under DC’s landlord/tenant laws. This means that:

- a. You must have a written lease with your landlord or a residency agreement with your residential provider that clearly states your rights and responsibilities in your housing.
- b. The residency agreement or lease should clearly state the eviction protections you have, which must be similar to the protections offered by DC landlord/tenant law. Eviction means that your landlord may force you to leave the property where you live if you do not follow the rules in your lease. Your eviction protections cannot be less than those of DC residents who do not receive supports from DDA. Similarly, your residential provider may discharge you from their services if you do not follow the rules in your residency agreement.
- c. Your landlord or residential provider may need to make reasonable accommodations due to your disability or allow you to make accessibility changes yourself, if necessary.
- d. If you have any questions about your rights, responsibilities, and protection from eviction, please contact your service coordinator, residential provider and/or other members of your support team. You may also contact:
 - The DDS Rights and Advocacy Specialist at dds.ora@dc.gov or by phone at 202-730-1700 or 202-730-1802.
 - The DDA Formal Complaint System at dds.complaints@dc.gov or by phone at (202) 442-8686. Online forms available at <https://dds.dc.gov/page/dda-formalcomplaint-system> in English or Spanish.
 - The DC Office of Tenant Advocate at 202-719-6560.

People have a right to privacy in their homes. However, if someone has a Person-Centered Modification (PCM), their privacy might be affected. (See #6). A right to privacy means that:

- a. You have a right to be alone in your bedroom and bathroom, away from staff that support you or other people you live with.
- b. Your bedroom and bathroom doors must have locks. You have the right to lock your bedroom or bathroom door when you are alone. Only staff members who need to help you are allowed to have keys to your bedroom or bathroom doors. They can unlock the doors when you need their support.
- c. Your staff should knock and get your permission before entering your bedroom or bathroom.

- d. You have the right to keep your personal belongings in a safe place at your day program or job site.
- e. You have the right to choose your roommate from the DDS vacancy list. Your roommate options may be limited to available vacancies unless you need other housing options.
- f. You have the right to choose your furniture and other decorations, as long as they do not violate your lease or residency agreement.
- g. If you move to another waiver home, you have the right to take your furniture and other decorations to your new home.

People have the freedom and support to control their own schedules and activities and have access to food at any time. However, this freedom may be affected if they have a Person Centered Modification (see #6). This right means that:

- a. Your staff will talk to you about what you would like to do and who you would like to spend time with during the day.
- b. You can go out when and where you want.
- c. Staff are available to accompany you, if needed, to meet with friends and family, visit places of interest, and assist with tasks like grocery shopping, getting your ID card, etc.
- d. You can participate in activities with your housemates, but you also have the choice to participate in activities independently.
- e. You can eat when you want to eat and where you want to eat.

People have the right to have visitors of their choosing at any time. However, that right may be affected if they have a Person-Centered Modification (see #6). This right means that:

- a. You can have visitors at any time, whether you live alone or with a housemate. However, your lease or residency agreement may have restrictions on the number of days your visitor can stay.
- b. If you and your housemate have agreed to visiting times or quiet hours, you are aware of the specific times for each.
- c. You can have visitors in your room or in common areas of your home such as the living or dining room.

The setting is physically accessible to the person. This means that:

- a. You can access all areas of your home including the bedroom, living room, kitchen, closet, bathroom, laundry room and more.
- b. If home modifications are needed due to your disability, you should contact your provider and service coordinator to discuss options and community resources such as the [Safe at Home program](#) through DACL.dc.gov.
- c. Your service coordinator and residential provider can help you get a clinical assessment such as a physical or occupational evaluation, if needed. This assessment will document your need for accessible features such as a ramp, grab bars, or wider doorways in your home.

RESTRICTION OF RIGHTS IN THE HCBS SETTINGS RULE

In certain situations, your waiver provider may restrict some of your rights under the HCBS settings rule due to a Person-Centered Modification (PCM).

1. When would a person have a Person-Centered Modification?

A Person-Centered Modification or PCM would be appropriate if exercising any of the specific rights outlined in the HCBS Settings Rules would put you or someone else's health or safety at risk. You and your support team will work together to determine if a PCM is necessary. You must be given the opportunity to consent to any modification, which must be included in your Individual Support Plan (ISP). A PCM cannot be enforced without your agreement.

2. Where would a person have a PCM?

PCMs can be used in residential or day settings where the person receives waiver services. However, PCMs cannot be used in a person's natural home setting.

3. What are some examples of a Person-Centered Modification?

Control of Funds: John often gives his debit card to friends and family to make online purchases. John is concerned that his account is often left in the negative and he is unable to pay for the things that he needs. John's support team met with John to develop a weekly budget. John agreed to leave his debit card at home and take only cash to work. John agrees to have his provider manage his account. A PCM was put in place and these details are included in the PCM. This restriction is reviewed by the support team at least annually and/or as needed.

Access to Food: Jane has a medical condition that makes her hungry all the time. She often overeats and gets sick. Jane was recently diagnosed with diabetes and heart disease. Jane worked with her staff and nutritionist to create a meal and snack schedule. Jane agreed to allow staff to check her room daily to make sure she is not storing food in her room. This restriction is reviewed by the support team at least annually and/or as needed.

4. Who reviews Person-Centered Modifications?

The provider's Human Rights Committee (HRC) reviews all PCM requests and provides a recommendation for or against the modification. The Committee's discussion is shared with the person and their support team, who will review and agree or disagree with the proposed modification.

5. **What happens if the person or the team does not agree with the Provider HRC or the Proposed Person-Centered Modification?**
- a. *If you do not agree with a PCM, you have the right to refuse.* If you believe that your rights are being violated, please contact your service coordinator and/or your residential provider, your support team, or other people that you trust. You may also contact the DDS Rights and Advocacy Specialist at dds.ora@dc.gov or by phone at 202-730-1700 or 202-730-1802. You may also contact DDS Customer Relations staff members by phone at 202-4428686, or by completing the DDS Customer Service Complaint Form in [English](#) or [Spanish](#).
 - b. If the person or their support team disagrees with the proposed PCM, the person's service coordinator must ensure that the person's ISP reflects any changes that the support team makes to the Provider HRC findings and the PCM. Only the portion of the PCM that the person agrees to shall be added to the ISP, and only that portion of the PCM may be carried out.

OTHER WAYS YOUR RIGHTS CAN BE RESTRICTED

1. A Behavior Support Plan (BSP) can restrict your rights. A BSP is a written plan to help prevent or reduce behaviors that may seriously limit your activities, relationships, or pose a danger to yourself or others. It involves analyzing behavior, identifying triggers, and implementing strategies to decrease or replace undesirable behavior. A licensed psychologist or clinical social worker develops and monitors BSPs. They require approval from the DDS Restrictive Control Review Committee (RCRC). If someone doesn't have a BSP but needs specific modifications to their rights as per HCBS setting rules, a Person-Centered Modification (PCM) plan is used. A PCM cannot be used without the person's consent.
2. Sometimes a court can limit your rights, such as through home detention, probation, or other means to keep you and your community safe.
3. A guardian or conservator can also limit your rights.
4. You have the right to be educated by your supporters about how your behaviors can harm you or others. If you believe your rights are being violated, you can contact Quality Trust for Individuals with Disabilities at 202-448-1450 or Disability Rights DC at 202-547-0198 for assistance.