

Additional Concept Areas & Topics

South Dakota Department of Social Services
Home and Community Based Services Waiver



Assisted Living Provider Education
Webinar January 25, 2017

Provider Policy Requirements

All Providers must post the policies in a common area of the Setting.

PROVIDER POLICY REQUIREMENTS

The policies and regulations will enhance the quality of home and community-based services (HCBS) and provide additional protections to Consumers that receive services.

- All Providers must establish policies within each of the seven Concept Areas that are consistent with state and federal regulations, including the Home and Community-Based Settings Final Rule and the Assisted Living Addendum to the SD Medicaid Provider Agreement.
- Refer to the HCBS Settings Guide to Expectations and Compliance.

Provider Policy Expectations

The Provider's Policy must include specific characteristics and criteria.

PROVIDER POLICY EXPECTATIONS

The Provider's Policy must include the following characteristics and criteria:

1. Address each of the identified Concept Areas
2. Address protocol for when a Consumer requires restrictions within any Concept Area
3. Be written in an understandable and easy to read format.
4. Be easily accessible.
5. Be provided upon admission.
6. Apply equally to all Consumers, regardless of payment source, care needs, or type of disability.
7. Address how the Provider will ensure that services are provided in a manner consistent with the ASA Care Plan.
8. Address how staff will be trained to ensure understanding of the requirements of the policy.

PROVIDER POLICY EXPECTATIONS

9. State that the Provider, along with the Consumer and the Adult Services and Aging Specialist (Case Manager), must identify any known limits or restrictions of a Consumer relative to each topic within each Concept Area. Any limits or restrictions must be justified and documented in the ASA Care Plan. Documentation must include a specific and individualized assessed need(s); the positive interventions and supports used prior to any modifications to the ASA Care Plan; less intrusive methods of meeting the need that have been tried but did not work; a clear description of the condition that is directly proportionate to the specific assessed need; regular collection and review of data to measure the ongoing effectiveness of the modification; established time limits for periodic reviews to determine if the modification is still necessary or can be terminated; the informed consent of the Consumer; and an assurance that interventions and supports will cause no harm to the Consumer.

Concept Area 1

Location

The HCBS Settings Final Rule requires all Consumers residing in an Assisted Living Center to be able to choose where they live from among setting options including non-disability specific settings, have visitors of their choosing at any time, and have access throughout the Assisted Living Center and the community, regardless of payment source, care needs, or type of disability.

Topic 1: Choice

In general, all Consumers are given choice of available options regarding where to live and receive services. All Consumers are given an opportunity to visit other settings and make informed choices about where to live and where to receive services. The options considered by the Consumer, and the final choice of settings and services, are documented in the Consumer's ASA Care Plan. All Consumers have a right to receive services in the most integrated setting appropriate to the Consumer's needs, including choosing from non-disability specific settings.

CHOICE

POLICY EXPECTATIONS

- The Provider will make a referral to the Adult Services and Aging Specialist (Case Manager) when:
 - A Consumer makes a request for a change in services or setting;
 - A Consumer experiences a change in needs; and/or
 - A Consumer requests a person-centered care planning meeting.
- The Provider will ensure the Setting reflects the Consumer's needs and preferences.
- The Provider will seek approval for any modifications and/or restrictions by completing and submitting the "Modifications to Care Plan" form to the Consumer's ASA Specialist. Refer to the "Provider Policy Expectations" section of the *HCBS Settings Guide to Expectations and Compliance* for information on how to justify the restriction(s).

Topic 2: Equal Access

In general, Providers must ensure equal access throughout the Assisted Living Center and the community for all Consumers, regardless of payment source, care needs, or type of disability.

EQUAL ACCESS

POLICY EXPECTATIONS

- All Consumers served by Medicaid have the same access to the broader community as Consumers who are not receiving Medicaid-funded home and community-based services.
- All Consumers served by Medicaid have the same access to the common areas of the Assisted Living Center as Consumers who are not receiving Medicaid-funded home and community-based services.
- All Consumers served by Medicaid live and/or receive services in the same area as those Consumers not served by Medicaid.

Topic 3: Visitation

In general, Providers must have policies and procedures that ensure a Consumer's right to have visitors as they choose.

VISITATION POLICY EXPECTATIONS

- The Provider will allow visitors at any time, unless the restriction is related to a health or safety risk. The Provider is not responsible for lodging, meals, and/or care of visitors.
- The Provider will have a location where Consumers can visit privately with visitors to ensure privacy and confidentiality of the Consumer and visitors.
- The Provider will make the Visitation policy available to all Consumers and their guests that specifies:
 - Any limitations on the duration of stay and fees for lodging, visitor meals, etc. The policy may require roommate consent for overnight visitors;

VISITATION POLICY EXPECTATIONS

- Any conditions in which visitors are prohibited and/or restricted due to a risk to the health and safety of Consumers residing at the Assisted Living Center;
- If visitors are required to sign in;
- Any restrictions on visitors who have caused or are causing a disturbance or who pose a health or safety risk to Consumers within the Assisted Living Center.
 - The Provider will notify Consumers in writing if any visitor restrictions apply to their guests.

Concept Area 2

Living Arrangements

Consumers must be able to have immediate access to the setting, access personal resources, be allowed to bring in personal belongings as space permits, have access to food at any time and have access to an array of services. Additionally, Consumers must know how to file a grievance or complaint.

CONCEPT AREA 2

LIVING ARRANGEMENTS

- In a provider-owned or controlled residential setting, the unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the Consumer receiving services, and the Consumer has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity. For settings in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each Consumer residing in the Assisted Living Center, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.

Topic 1: Admissions Agreement

In general, Providers must have an Admissions Agreement that offers the same protections as South Dakota's landlord tenant laws. The Admissions Agreement must also reflect that Consumers residing in the Assisted Living Center have the freedom to furnish and decorate his/her personal space.

ADMISSIONS AGREEMENT POLICY EXPECTATIONS

- The Provider will ensure Consumers have the same protections as South Dakota's landlord tenant laws.
- The Provider will explain the Provisions of the Admissions Agreement to the Consumer when necessary.
- All Consumers will sign the Admissions Agreement which will be accessible for review.
- The Provider will ensure that new policies do not apply to a Consumer after signing an Admissions Agreement.
 - Once the Admissions Agreement is signed by a Consumer, he/she is grandfathered in and not required to adhere to any new policies created after the signing.

Topic 2: Personal Effects

In general, Consumers will have the freedom to furnish and decorate their bedroom or apartment with their personal effects and belongings to make the residence their home.

PERSONAL EFFECTS POLICY EXPECTATIONS

- All Consumers may decorate their bedroom or apartment.
- The Provider will have a written policy describing any personal effects limitations in place to protect the property and/or the health and safety of Consumers. Any limitations must apply to all Consumers within the Assisted Living Center.
- The Provider will allow Consumers to bring in their own furniture and other belongings, as long as personal effects do not compromise the health and safety of any Consumer and as space allows.
- The Provider will seek approval for any modifications and/or restrictions by completing and submitting the “Modifications to ASA Care Plan” form to the Consumer’s ASA Specialist. Refer to the “Provider Policy Expectations” section of the *HCBS Settings Guide to Expectations and Compliance* for information on how to justify the restriction(s).

Topic 3: Services

In general, Consumers must have access to a variety of services and supports to meet their needs throughout the day.

SERVICES

POLICY EXPECTATIONS

- All Consumers know how to request a change in services and supports.
- Requests for reasonable services and supports are accommodated.
- All Providers must provide information on available services to Consumers.
- The Provider will have a Services policy that specifies:
 - How Consumers will be notified about all service options available in the Assisted Living Center;
 - How Consumers can request a change in services as their needs change; and
 - How Consumers will be made aware of services and supports that may be available in the broader community.
 - How Consumers preferences will be accommodated when possible.

Topic 4: Grievance Procedures

In general, Consumers must know how to file a grievance or complaint. A Consumer residing in an Assisted Living Center should be able to voice grievances without discrimination or reprisal. A Consumer's grievance may be in writing or oral and may relate to treatment furnished, treatment that has not been furnished, the behavior of other Consumers residing at the Assisted Living Center, and infringement of the Consumer's rights.

GRIEVANCE PROCEDURES POLICY EXPECTATIONS

- The Provider will adopt a grievance process and make the process known to each Consumer residing at the Assisted Living Center and to the Consumer's immediate family.
- Staff is knowledgeable about the process for filing a grievance.
- A grievance filed by a Consumer must not affect Consumer care.
- The Provider will have a Grievance Procedures policy that:
 - Specifies how to file a complaint;
 - Contains contact information for whom to contact to file an anonymous complaint; and
 - Includes the Provider's efforts to resolve the grievance and documentation of the grievance; the names of the persons involved; the disposition of the matter; and the date of disposition.

Concept Area 3

Privacy

The Provider ensures a Consumer's rights of privacy. Each Consumer has privacy in their sleeping or living unit. Units have entrance doors lockable by the Consumer, with only appropriate staff having keys to doors. Consumers sharing units have a choice of roommates in that setting.

Topic 1: Personal Hygiene

In general, the Setting must respect the Consumer's preferences and recognize the Consumer's right to privacy when completing activities of daily living.

PERSONAL HYGIENE POLICY EXPECTATIONS

- A Consumer that needs assistance with grooming is groomed as he/she desires.
- The nails of Consumers are kept trimmed and clean.
- All Consumers who are able to complete activities of daily living without assistance are able to do so privately.
- No unnecessary staff is in the room when Consumers are completing activities of daily living.
- If Consumers share a bedroom or apartment, each Consumer has the right to complete personal hygiene in private.
- The Provider will respect a Consumer's preferences to allow for choice of clothing and personal care products within resources.

Topic 2: Health-Related Information

In general, the policies of the Assisted Living Center respect each Consumer's right to privacy regarding medications and other health related information.

HEALTH-RELATED INFORMATION POLICY EXPECTATIONS

- Health information including dietary needs, therapy schedules, and medication lists is not visible to the public or other Consumers.
- Staff is trained and understand requirements regarding protected healthcare information.
- Reasonable arrangements should be made if a Consumer requests to be accompanied by staff during medical appointments.
- All Consumers are offered a choice regarding where to take and/or receive medications, and may do so in private.
- All Consumers are able to consult with their healthcare Providers in private and choose their own physician.

Topic 3: Communication with Family & Friends

In general, Consumers residing at the Assisted Living Center are able to communicate with other Consumers in private.

COMMUNICATION WITH FAMILY & FRIENDS

POLICY EXPECTATIONS

- All Consumers have access to a telephone or computer or other communication device in a private area.
- Mail, email, texts or other written communication to or from a Consumer is kept private and confidential, and is reviewed and/or opened by the Consumer, unless the Consumer provides informed consent to be reviewed or opened by someone else.
- The Setting will include a location where Consumers can visit privately with guests.
- The Provider may have a policy requiring Consumers to reserve a space for visiting with guests in advance.

Concept Area 4

Dignity and Respect

The Provider ensures a Consumer's rights of dignity and respect, and freedom from coercion and restraint.

Topic 1: Consumer Rights

In general, Consumers residing at the Assisted Living Center will be treated with dignity and respect and free from coercion and restraint.

CONSUMER RIGHTS POLICY EXPECTATIONS

- A Consumer's right to dignity, respect and privacy is ensured at all times.
- The dining area should afford dignity to diners.
- Consumers will be dressed in clothes that fit, are clean, and are appropriate for the time of day, weather, and preferences.
- Staff will communicate with Consumers in a dignified and respectful manner.
 - Staff will address Consumers in the manner in which the Consumer would like to be addressed.
 - Staff will not curse or use profanity and will converse with Consumers in a respectful and appropriate manner.
 - Staff will not talk to other staff about a Consumer as if the Consumer was not present or within earshot of other persons living in or visiting the Assisted Living Center.

CONSUMER RIGHTS POLICY EXPECTATIONS

- The Provider will provide information on available services to Consumers.
- The Provider will inform Consumers about their rights while residing at the Assisted Living Center.
- The Provider will provide care and an environment that contributes to the Consumer's quality of life at the Assisted Living Center.
- The Provider will provide for the spiritual needs of the Consumer while residing at the Assisted Living Center consistent with the Consumer's preferences, including opportunities to engage in spiritual activities in the broader community.

Concept Area 5

Physical Accessibility

The Setting must be physically accessible to the Consumer. The Assisted Living Center must be fully accessible and compliant with the Americans with Disabilities Act (ADA).

Topic 1: Access to Appliances

In general, when a Consumer expresses a desire to use an appliance, the appliance must be accessible i.e. washer and dryer are front loading for a Consumer in a wheelchair if he/she chooses to do his/her own laundry or access to a microwave in the event a Consumer wishes to warm up a meal.

ACCESS TO APPLIANCES POLICY EXPECTATIONS

- A food preparation area is available and accessible to Consumers in their apartment/room or a common area.
- When Providers require or allow participation in instrumental activities of daily living such as laundry or cooking, the Provider must provide accessible appliances.

Topic 2: Mobility & Environmental Access

In general, the Setting should be fully accessible and compliant with the Americans with Disabilities Act (ADA). Consumers must be able to move freely around the Setting without assistance, and have reasonable unrestricted access in the Assisted Living Center.

MOBILITY & ENVIRONMENTAL ACCESS POLICY EXPECTATIONS

- The Provider will make modifications to meet a Consumer's mobility needs.
- Consumers must be able to access all areas without assistance.
- When Consumers require supports to move about the Assisted Living Center as they choose, environmental accessibility features such as grab bars, seats in the bathroom, ramps for wheel chairs and walkers, viable exits for emergencies, etc. must be provided.

Concept Area 6

Autonomy

The Provider must have policies that optimize, but does not regiment, Consumer initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact. Policies must facilitate choice regarding services and supports, and who provides them. Consumers have the freedom and support to control their own schedules and activities.

Topic 1: Life Decisions

In general, Consumers residing at the Assisted Living Center will have independence and support in making life choices.

LIFE DECISIONS

POLICY EXPECTATIONS

- Consumers are not required to adhere to a set schedule for walking, sleeping, bathing, eating, exercising, participating in activities, etc.
- Consumer choices are incorporated into the services and supports received.
- All Consumers should be empowered to make decisions.
- All Consumers must be free to choose a Provider from among those willing to participate under the medical assistance program.

LIFE DECISIONS

POLICY EXPECTATIONS

- Consumers may choose a personal attending physician, physician assistant, or nurse practitioner, be fully informed in advance about care and treatment and of any changes in that care or treatment that may affect their well-being, and unless incompetent or incapacitated, participate in planning care and treatment or changes in care or treatment.
- The Provider will assist a Consumer in identifying appropriate community Providers of services that are available in the community to meet his/her specific needs.
- The Provider will inform the Consumer how to make a request for a new Provider.

LIFE DECISIONS

POLICY EXPECTATIONS

- All Consumers must have an ASA Care Plan signed by the Consumer or the Consumer's Legal Representative.
 - The ASA Care Plan must:
 - Describe the service to be provided, the extent and frequency of the service, and the anticipated cost;
 - Be revised annually or as the Consumer's needs change; and
 - Be person-centered.
- All Consumers must have an active role in the development and updating of the ASA Care Plan.
- Care planning meetings should be scheduled at a time convenient for the Consumer and/or representative, to attend.

LIFE DECISIONS

POLICY EXPECTATIONS

- Consumers and chosen representatives should be made aware of how to schedule a person-centered Care Plan meeting when their needs change.
- The Provider will establish policies to protect and promote the rights of each Consumer.
 - Prior to or at time of admission, the Provider must inform the Consumer, both orally and in writing, of the Consumer's rights and of the rules governing the Consumer's conduct and responsibilities while living at the Assisted Living Center.
 - The Consumer must acknowledge receipt of the information in writing; and
 - Any changes throughout the stay must be given by the Provider to the Consumer both orally and in writing.

LIFE DECISIONS

POLICY EXPECTATIONS

- All Consumers should be made aware, both orally and in writing, of how to make a service request.
- The Provider will document reasons why a specific service request cannot be accommodated in the ASA Care Plan.

Concept Area 7

Community Integration

The setting must be integrated in and support full access of Consumers receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.

Topic 1: Access to Financial Resources

In general, Consumers and as applicable the Consumer's Representative Payee must be able to access personal resources.

ACCESS TO FINANCIAL RESOURCES

POLICY EXPECTATIONS

- All Consumers have the right to choose their banking and financial services.
- All Consumers have access to their funds and other personal resources.
- The Provider will ensure all Consumers are able to keep their personal needs allowance.
- The Provider, if identified as the Representative Payee, may manage a Consumer's personal finances.
- All Consumers have the opportunity to shop and make purchases consistent with their choices and available personal resources.
- The Provide will ensure that comingling of funds does not occur.

ASA Care Plan and Modifications

- For each Topic Area within each Concept Area:
 - The Provider will seek approval for any modifications and/or restrictions by completing and submitting the “Modifications to ASA Care Plan” form to the Consumer’s ASA Specialist. Refer to the “Provider Policy Expectations” section of the *HCBS Settings Guide to Expectations and Compliance* for information on how to justify the restriction(s).

QUESTIONS

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