

Person-Centered Practice: Aligning with the HCBS Philosophy and Rules

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Presenter: Stacie Lane, MSW, BCBA

OBJECTIVES:



1. Apply the Final Rule to practical situations regarding restraints, restriction and behavioral interventions.
2. Explore mitigating factors in case studies to ensure compliance with the Final Rule.
3. Learn how to use the exploratory questions provided by CMS to help ensure compliance with rules.



Final Rule

- What is the final rule?

A federal rule that supports enhanced quality in HCBS program

Protects the individuals we are providing services to.

Intent is to ensure individual's receiving services have full access to community life as you or I would.

- In place since March 2023
- We (ALL OF US) are yet to be in full compliance with this rule.

Iowa Administrative Code

(links in the reference section)

- Rules regarding Restraints, Restrictions, and Behavioral Interventions have been in the Administrative code since July 2018 and are also a part of the Final Rule
- They are a part of ongoing periodic/certification reviews of providers
- We are not yet in full compliance

What are rights?

Definition: Any natural right afforded to the general public, basic human rights, the Declaration of Independence.....

What are some of the individual rights that you enjoy? That are most important to you?

What are the rights of the individuals that you provide services to?

The exact same rights you and I have!!!!

- To make choices
- To vote
- To speak and voice opinions
- To express their sexuality
- To enter into and choose relationships
- To live free of restraint and coercion
- Going to places you want to go
- Ordering in food when I want
- Having visitors when I want
- To privacy
- To have personal possessions
- To feed yourself
- To have services for health
- To be included in the community
- To due process
- Eating when and what I want
- Talking to people on the phone when I want
- Dignity of Risk



Rights Restrictions

What rights have you seen restricted for people that you have worked with?

Have those restrictions caused problems for that individual?

Would they cause problems for you?

Rights Restrictions

- You, your staff, guardians, case managers, etc. CANNOT arbitrarily restrict people's rights.
- If a rights restriction is going to be put into place.....
 - it must be agreed upon by the individuals' IDT
 - Best practice would be to only have restrictions in place to manage health and safety risks a person can't or won't independently manage. (see Iowa Code)
 - You will need to follow certain rules and guidelines
 - It all needs to be documented in the individual's service plan.

The Service Plan

Shall include documentation of the following.

1. What the restriction is.
2. The need for the restriction.
3. The less intrusive methods of meeting the need that have been tried but did not work.
4. Either:
 - A plan to restore rights **OR**
 - Written documentation that a plan is not necessary or appropriate.
5. Established time limits for periodic reviews (quarterly) to determine if the restriction is still necessary or can be terminated. The informed consent of the individual.
6. An assurance that the interventions and supports will cause no harm to the individual. This can be a part of informed consent.
7. A regular collection and review of data to measure the ongoing effectiveness.

Informed Consent

What is INFORMED Consent?

- ❖ It is a process. Not a 1 and done.
- ❖ It is collaboration
- ❖ Knowledge of what exactly the restriction is.
- ❖ Full knowledge of potential risks and benefits of that restriction
- ❖ Reasonable alternatives
- ❖ Risks and benefits of the alternatives
- ❖ Does the individual and/or their representative understand the above

Restraint & Behavioral Interventions

Additional requirements for Restraint and Behavioral Interventions.

- The provider shall have in place a system for the review, approval, and implementation of ethical, safe, humane, and efficient behavioral intervention procedures.
- Procedures are in place to inform the individual and the individual's legal guardian of restraint, restriction, and behavioral intervention policy and procedures at the time of service approval and as changes occur.
- Procedures are used only for the reduction of identified interfering behaviors.
- **Designed and implemented only for the benefit of the individual and shall never be used as punishment, staff convenience, or a substitute for non-aversive program/intervention.**
- Restraint, restriction, and any behavioral intervention program with a restrictive component, shall be time-limited and shall be reviewed at least quarterly.

Restrictive Procedures....



- ARE to keep the individual, others and the environment safe while new supports are identified and while the person is simultaneously learning new skills to reduce the need for the restrictive procedure

Restraint (is a restrictive procedure)

Definition: Restricting freedom of movement, including chemical restraint, mechanical restraint, and seclusion.

Examples: wheelchair out of gear and the person can't move it themselves, holding a door closed, chemical restraints, sitting on someone, holding someone's hands/arms/legs/etc. in a manner to restrict their movement.

NOTE: Subject to all of the above requirements that we talked about. Is not to be used if it has not been agreed upon by the IDT, if it is not in the plan, if the agency does not have policy and procedure, and if formal training has not occurred with the direct support professionals who will be implementing it.

Behavioral Interventions

Behavior Intervention Plans: A formalized person-centered behavior plan used to support someone in changing interfering behavior.

If restraint is being used, there needs to be a behavior intervention plan.

Often more of a guidance for staff versus changing the behavior of the individual. Behaviors don't happen in a vacuum.

Archived training by Susan Smith, "Behavior Support Plan Development."

Restrictive Procedures (imposed ON the individual)

Restrictive Procedures sometimes used in BSPs:

- Bolted wardrobe, dresser, bed, and chair in bedroom
- 1:1 supervision when at public events/places
- Removal of sharp objects for __ hours following suicidal threat
- Door alarms - for wandering or exit behaviors
- Wearable GPS - for wandering or exit behaviors
- Medications Locked
- Bedroom windows covered with shaded film
- Electronics/Social Media restrictions
- Money Management – Payee or limited / controlled access to personal funds

Example Restrictions and Remediation

Example Restriction

Person receives daily SCL services. Staff just told an individual that they couldn't have a visitor because they cannot supervise another person in the home today.

Which level is this issue at? →

What exploratory questions could be asked to assist in remediation?



Remediation

Ensure there are no policies that prohibit guests from visiting an individual

House mate expectations.

Boundaries.

Example Restrictions and Remediation

Example Restriction

An individual accesses the internet on a regular basis for leisure/fun. It was discovered that the individual has been on dating sites and was exchanging his debit card information with someone he had a romantic interest with.

Which level is this issue at? →

What exploratory questions could be asked to assist in remediation?



Remediation

Are there internet safety lessons from the public library?

Do the local police have educational materials or sessions for internet safety?

Is there something online that you can monitor, but help them to learn from?

Example Restrictions and Remediation (Your turn)

Example Restriction

An agency does not allow smoking anywhere on the grounds of their provider owned and controlled locations, so they have eliminated smoke breaks as options in services.

Which level is this issue at? →

What exploratory questions could be asked to assist in remediation?



Remediation

Are there Iowa laws to follow?

Are breaks needed? Is this a work environment or a living environment?

Can individuals come and go as they please?

Create policies for each location rather than one blanket policy.

Example Restrictions and Remediation (Your turn)

Example Restriction

The agency has purchased homes and will re-distribute individuals among the new homes. This will allow for the individuals to have more space and privacy. They have created a move schedule to assist in the process and will start moving next week.

Which level is this issue at? →

What exploratory questions could be asked to assist in remediation?



Remediation

Ensure individuals have a choice in the move.

Ensure ample notification for this choice to be made.

Process for new roommate selection.

Get the IDT involved.

Example Restrictions and Remediation (Your turn)

Example Restriction

An individual works in a supported employment site. The agency has some affiliation with the site and has rules in place that “encourage attendance.” These policies and procedures include an individual losing work time in the schedule if they have absences from work and rewarding attendance at work with social activities.

Which level is this issue at? →

What exploratory questions could be asked to assist in remediation?



Remediation

Review policies. Are these policies consistent for all employees in the agency?

Is this a reasonable rule for employment?

What is the purpose of this policy, and can it be met at the individual level of person-centered planning rather than be a blanket policy?

Example Restrictions and Remediation (Your turn)

Example Restriction

An individual wants to sleep in on the weekends but they have a 7:00 a.m. medication.

Which level is this issue at? →

What exploratory questions could be asked to assist in remediation?



Remediation

Review policies. Is there something written in the agency policy

Is this a reasonable rule for medication administration?

What is the purpose of this policy, and can it be met at the individual level of person-centered planning rather than be a blanket policy or rule?

Example Restrictions and Remediation (Your turn)

Example Restriction

A person can't eat or drink in the living room because they always make a mess when they do.

Which level is this issue at? →

What exploratory questions could be asked to assist in remediation?



Remediation

Review policies. Is there something written in the agency policy

Is this a reasonable rule? For staff convenience? Or to help the person?

What is the purpose of this policy, and can it be met at the individual level of person-centered planning rather than be a blanket policy or rule?

Example Restrictions and Remediation (Your turn)

Example Restriction

A person wants to go out to a bar at 10:00 p.m. The staff says they can't because the overnight staff is coming in.

Which level is this issue at? →

What exploratory questions could be asked to assist in remediation?



Remediation

Review policies. Is there something written in the agency policy

Is this a reasonable rule?

What are some options?

Example Restrictions and Remediation (Your turn)

Example Restriction

A person wants to go to Red Lobster for dinner. The staff says the individual can't because they don't have any money.

Which level is this issue at? →

What exploratory questions could be asked to assist in remediation?



Remediation

Review policies. Is there something written in the agency policy

Is this a reasonable rule? Does the staff or the person not have money?

What are some options besides just saying no?

Example Restrictions and Remediation (Your turn)

Example Restriction

Person A cannot interact safely with Person B in day habilitation services. The staff have tried to facilitate positive interactions, worked on interventions for socialization and supported activities they both enjoy. The two still do not get along and are becoming physically aggressive. They tell A and B that they can no longer be in the same activities for the rest of the year, even if they are interested in the same activities, because it causes too much conflict and unrest.

Which level is this issue at? →

What exploratory questions could be asked to assist in remediation?



Remediation

Review policies. Is there something written in the agency policy

Is there a need for formal behavioral intervention plan?

What are some options besides telling them where they cannot go or restricting activities?

Restraint, Restriction, & Behavioral Intervention Frequently Missed Opportunities

1

Policy does not match or align with procedure

- Do you have separate policies and procedures? Review them in themes or together as a pair.
- Schedule periodic or routine reviews of policy and procedure as a part of quality oversight activities.
 - Make them a part of staff meetings or management meetings – whatever fits your organizational structure.
 - Make sure the same group reviews all policy and procedure so that they are familiar with how they work together.

Restraint, Restriction, & Behavioral Intervention Frequently Missed Opportunities

2

Procedure is not what is seen or practiced on site

- Schedule observations of common procedures with an observation checklist to make sure of consistency
- Use training checklists for any observable training tasks

Restraint, Restriction, & Behavioral Intervention Frequently Missed Opportunities

3

Direct support professionals are not understanding the philosophy of HCBS services.

- Incorporate HCBS philosophy training in orientation and periodically after hire.
- Track trainings and training renewals.
- Highlight agency and staff strengths or moments that you see the philosophy in action at regular team meetings, on social media, or newsletters.

Questions

Resources

- [Home & Community Based Services Final Regulation | Medicaid](#)
- [Iowa Administrative Code](#)
 - [IAC 441-78 General service standards](#)
 - [Provider Requirements: IAC 441-77.25\(4\)](#)
- [Universal Declaration of Human Rights | United Nations](#)
- [Text of the Declaration of Independence | Declaration Resources Project \(harvard.edu\)](#)
- [Exploratory questions non residential.pdf \(iowa.gov\)](#)
- [Know Your Rights | Disability Rights | ACLU](#)
- [Self-Determination & Dignity of Risk Fact Sheet.](#)