

Session 1

3/22/23 10am

1. What is the term failure to presume competence?
This is referring to a culture where the support system of an individual holds biases or beliefs that an individual is unable to learn, make informed choices (even if the choices are not supported by providers), or direct their own lives.
2. While trying to support individuals having all access to all areas in the group home setting; how do we comply with licensing when providers are required to double lock medications and lock chemicals & cleaning products?
The HCBS reviewers will not instruct any provider to violate any regulation. It is required that medications and specific chemicals are locked, but it is not necessary to lock an entire room to meet this requirement.
3. The definition of presumed competence with examples.
Presumed competence is a strengths-based approach to supporting individuals with disabilities. This includes supporting individuals to think, learn, and self-direct their lives. An example may be providing an individual with potential consequences of a decision and honoring their decision. Another example may include choices on clothing based on the weather or choosing to volunteer.
4. Is there an exception for individuals living in a group home setting that have legal issues, display at risk behaviors or have an ID diagnosis are not given keys to their room or the home. These individuals do not have overnight visitors. If an individual has a specific health and safety concern, a modification can be implemented by the support team with the consent of the individual.
5. Signage for Human Rights and Licensing requires posting rights that are visible for clients and family members. Would placing the Human Rights and Licensing in a binder meet this requirement? How to handle this inconsistency in compliance?
Any posting required by regulations is not considered excessive. A provider will not be instructed to remove required postings.
6. What are the consequences for providers that do not comply with HCBS recommendations?
Any provider who cannot comply with the HCB Settings Rule will have their Medicaid Participation Agreement removed, and will no longer be able to bill DMAS for services.
7. Some individuals do not want to participate in activities provided. What should a provider do?
A team meeting is recommended to discuss the individuals' outcomes and goals. It may be that the individuals are interested in a different schedule, support, or service. A Community Resource Consultant may be a helpful support in this discussion.

Questions and Answers
HCBS Stakeholder Updates

8. For pre-authorization in WAMs a schedule is required. Medicaid reviewers require the schedule and compliance to the schedule as individuals are able to alter their day-to-day routines based on the daily choices. The schedule also guides staff and follows ISPs. How to comply if a schedule of routine is not offered?

The schedule is a general guide. A provider is responsible for supporting an individual with day-to-day changes in schedules based on common life events or choices.

9. Provide clarity on the modification process? Is it available online?

There are documents available online- <https://www.dmas.virginia.gov/for-providers/long-term-care/waivers/home-and-community-based-services-toolkit/>

10. How to handle guardian requests that directly conflict with HCSB regulations?

Education must be provided to the guardians. If assistance is needed, it is recommended to contact the Community Resource Consultant. To date, there have been no guardians who have not been able to understand the HCBS.

11. Is there a universal form for onsite reviews that ensures consistency? If not, could universal forms be developed to include clarification and definitions of the requirements for settings?

Yes, standard tools are used. If you have concerns, reach out to your reviewer.

12. There are still providers that have not given individuals keys to the home, is it too late to provide a training for providers?

Yes.

13. CMS plan is not yet approved by the state. Will the audits change when the CMS plan is approved?

The state submitted a plan to CMS in November 2022. We have not received any feedback. The audits will not be changing in modality, but will be increasing in desk-audits and reducing frequency of onsite reviews.

14. How often should providers take the HCBS test?

Training should take place at least annually. We recommend frequent, ongoing trainings.

15. Some group homes have expressed that they lack staff and do not have the staff to transport individuals to various community outings.

Individuals may use public transportation, walk, explore employment options, or community transportation.

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16. How to address when an individual is asleep even though activities are provided? Should the Support Coordinator be contacted?

It is recommended that a team meeting should be held to discuss the individuals' goals and outcomes. There should be a discussion to determine if an individual would like a different schedule, service, or provider. A community resource consultant is also a great resource.

17. Are providers responsible for overnight visitors? How long should the visitors stay? Are providers expected to provide support to the visitor?

Individuals may have overnight visitors. Many lease agreements contain language around how long visitors can stay before they must be added to the lease. The providers should seek guidance on overnight visitors. Providers are not responsible for providing support to visitors.

18. Is it okay for a group home to have a "pseudo" office space?

Yes, offices are common areas and individuals must have access.

19. If a provider is observed to be non-compliant with the questions on the On-Site Visit Tool, should the support coordinator refer the provider for remediation? Should the Support Coordinator explain the importance of compliance and document the discussion.

We are working on documents for support coordinators. A Support Coordinator should address any concerns with the provider and discuss a resolution. If a provider does not address the concern, the Support Coordinator can submit the concerns to hbscomments@dmas.virginia.gov.

20. How to ensure safety for individuals going in the community alone, without assessing or presume competency?

If individuals have no concerns around accessing the community, they should be allowed to do so. An individual's plan should outline any parameters around access alone. Examples include telling staff where they are going, communicating with staff via cell phone, giving specific timeframes for returning.

21. Will the March 17th deadline impact providers in billing for services in a setting that is still pending receipt of an HCBS compliance letter?

No. Billing will proceed as typical.

22. If an individual has been deemed incompetent to be their own guardian and has a guardian, can the guardian decide if the individual has keys?

Individuals are entitled to keys. Providers should have conversations with the guardian regarding the purpose of the settings rule, and the provision that staff will have back-up keys for emergencies. If a health and safety concern requires a modification, the team can implement this process.

23. What if an individual is unable to lock or unlock their door even after training?

Individuals are entitled to a key. A provider should use locks/keys that work for the individual (ex: keypads/thumb prints). A person may choose to never use their key.

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24. What is a common area?

Any area in a home that is not another individual's bedroom. In day support programs, all areas of the building.

25. Licensure requires the license to be displayed and fire exit diagrams to be displayed. How to comply with the requirements of HCBS and DBHDS requirement?

Postings that are required in licensing or human rights regulations that are not considered institutional.

26. Should individuals be given keys that have significant at risk behaviors or suicidal ideation?

All individuals are entitled to keys. Appropriate staff people may also have keys should there be an emergency. If there is a health and safety risk, a modification can be put in place.

27. How to comply if the provider doesn't use menus during an OSR or desk audit?

Inform the reviewer that you do not use menus. Provide documents that show choices given to the individuals (ex: grocery lists or trips to the store).

28. Would watching a tv program with other individuals qualify as socialization?

Not in a day support program.

29. What is the protocol for an individual in a group home that has a girlfriend visiting? Can she spend the night?

Individuals have a right to have visitors at any time. If there is a health or safety concern that requires a modification, the modification requires the individual's consent.

30. Where are the regulations regarding specific activities that are allowable?

Regulations can be found online at

<https://law.lis.virginia.gov/admincode/title12/agency30/chapter122/>