

## HCBS RELATED RULE CHANGES & ACTION ITEM CHECKLIST, MARCH 2017

Background	The Centers for Medicare and Medicaid Services (CMS) adopted regulations that define settings in which it is permissible for states to pay for Medicaid Home and Community Based Services (HCBS aka CBC). Each state with a Medicaid waiver program submitted a transition plan to CMS. Oregon’s plan outlined steps to assure alignment of state standards with the CMS HCBS guidelines. The following matrix is designed to organize key HCBS dates and action items. This document is updated over time to assist providers in work toward the final compliance standards and timelines. Additional information can be found on the DHS website. <a href="http://www.oregon.gov/DHS/SENIORS-DISABILITIES/HCBS/Pages/Resources-Oregon.aspx">http://www.oregon.gov/DHS/SENIORS-DISABILITIES/HCBS/Pages/Resources-Oregon.aspx</a>		
Key Dates	<b>January 2014</b> CMS HCBS Rule adopted. States allowed 5-year compliance transition. Effective date of rule March 17, 2014.	<b>September 30, 2018</b> Oregon compliance date for assisted living, residential care and memory care communities licensed prior to January 1, 2016.	<b>March 17, 2019</b> CMS compliance date for states and providers.
OAR’s	NEW HCBS Overarching Rule <b>411-004-0000</b> <b><i>Adopted 1.1.2016</i></b> HCBS and Person Centered Service Planning Foundational Standards	REVISED Residential Care & Assisted Living Licensing Rules <b>411-054-0000</b> <b><i>Effective 6.28.2016</i></b> Amended sections of Residential Care and Assisted Living OAR’s	
Link to complete set of ALF & RCF OAR <a href="http://www.dhs.state.or.us/policy/spd/rules/411_054.pdf">http://www.dhs.state.or.us/policy/spd/rules/411_054.pdf</a>			

Applicable to	All Assisted Living Residential Care Adult Foster Homes Developmentally Disabled HCBS Settings	All Assisted Living and Residential Care communities Licensed <b><u>AFTER</u></b> <b>January 1, 2016</b> must be fully compliant with HCBS standards.	All Assisted Living and Residential Care communities providers licensed <b><u>PRIOR</u></b> to January 1, 2016 will have until September 2018 to be fully compliant. Several HCBS OAR's have compliance or implementation dates prior to September 2018. See below.
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## HCBS REQUIREMENTS, REFERENCES, AND IMPLEMENTATION ACTIONS

HCBS Requirement Oregon Administrative Rule or CFR	Information Suggestions	Action Items	Who is Responsible	Date for Action Completion
<b>Resident Rights</b>  <i>Effective 1/1/16 if newly licensed after 1/1/16 and effective on 9/30/2018 if licensed prior to 1/1/16.*</i>  OAR 411-054-0027 (2) HCBS Rights Pages 38-39 Cross Reference OAR 411-004-0038 HCBS Standards	Update resident rights documents now. Insert effective date language on page 38 of OAR.	<input type="checkbox"/> Review related OAR's <input type="checkbox"/> Update resident rights related documents with new HCBS rights. a). Residency agreement; b). Access to food at any time; c). Visitors at anytime d). Choice of roommate d) Furnish & decorate bedroom according to residency agreement e) Freedom and support to control schedule and activities.	Name	__/__/__
<b>Residency Agreement</b>				
<i>Effective 6/28/2016</i> OAR 411-054-0025 (10) Facility Administration -Disclosure-Residency Agreement. Licensees must include HCBS freedoms as referenced in 411-054-0027 (2) in the residency agreement. OAR 411-004-0010- Definitions (18) Residency Agreement	Current OAR meets HCBS standard.	<input type="checkbox"/> Review related OAR's <input type="checkbox"/> Review related Guide on DHS HCBS website <input type="checkbox"/> Review and revise disclosure and residency agreement to include HCBS freedoms. See list above. <input type="checkbox"/> Create an addendum copy of current residents. <input type="checkbox"/> Distribute to current residents/families and obtain signature page of receipt and explanation. <input type="checkbox"/> Address the new freedoms at resident council meetings.	Name	__/__/__

<b>Access to Food</b>				
<p><i>Effective *</i>  OAR 411-054-00027(2) HCBS Rights  OAR 411-054-0030 Resident Services – meals &amp; snacks  OAR 411-054-0034 &amp; 36  Resident Evaluation &amp; Service Plan</p>	<p>ALF meets this requirement primarily because the kitchens in the living unit/apartment. Will still need to evaluate and service plan each individual's needs.  RCF's will evaluate on individual basis. If there are kitchen features in the RCF living unit then it would take care of this i.e. storage, mini fridge. If these types of features do not exist, then will need to accommodate.</p>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Review related OAR's</li> <li><input type="checkbox"/> Review related Guide on DHS HCBS website</li> <li><input type="checkbox"/> Evaluate each resident's desire for access to food.</li> <li><input type="checkbox"/> Service plan how that can most easily be accommodated.</li> <li><input type="checkbox"/> How will they obtain their favorite snacks or beverages?</li> <li><input type="checkbox"/> Address in Service Plan</li> </ul>	<p>Name</p>	<p>__/__/__</p>
<b>Visitors at any time</b>				
<p><i>Effective *</i>  OAR 411-054-00027(2) HCBS Rights  Current  OAR 411-043-00027 (1) (e) (J)(n) (r )</p>	<p>Provider must support the right to have visitors anytime resident chooses.  Must allow visits in living unit or common areas.  Preferences of other residents must be respected.  There may be limits on the amount of time a visitor can stay based on a residency/disclosure agreement i.e. how many overnight stays.  Cannot limit visiting hours i.e. 8 AM to 8 PM  May have visitor check-in and conduct policies.  DHS Fact Sheet Available.</p>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Review related OAR's</li> <li><input type="checkbox"/> Review related Guide on DHS HCBS website</li> <li><input type="checkbox"/> Review and revise as needed disclosure, residency agreement, resident handbook, and policies related to visitors and overnight guests.</li> <li><input type="checkbox"/> Create a policy specific for overnight guests if you do not have one. Describe number of days they can stay, charges, parking, where they can be in the building, conduct expectations. Consequences of unacceptable behavior.</li> <li><input type="checkbox"/> Distribute updates to residents and families.</li> <li><input type="checkbox"/> Address at resident council.</li> </ul>	<p>Name</p>	<p>__/__/__</p>

<b>Furnish &amp; Decorate Room</b>				
<i>Effective *</i> OAR 411-054-00027(2) HCBS Rights <i>Current</i> OAR 411-043-00027 (1) (e) (J)(n) (r )	Resident may decide how to furnish and decorate their units. Decorating guidelines from DHS state it must be respectful, considerate and follow the residency agreement. DHS Fact Sheet available.	<input type="checkbox"/> Review related OAR's <input type="checkbox"/> Review related Guide on DHS HCBS website <input type="checkbox"/> Review and revise as needed disclosure, residency agreement, resident handbook, and policies related to furnishings and decorating. <input type="checkbox"/> Distribute to all current residents/families. <input type="checkbox"/> Address at resident council.	Name	__/__/__
<b>Freedom to Control Own Schedule</b>				
<i>Effective *</i> OAR 411-054-00027(2) HCBS Rights <i>Current</i> OAR 411-043-00027 (1) (b) (c) (e) (g) (m) (n) (r ) OAR 411-054-0034 & oo3636 Resident Evaluation & Service Plan	This is not new in the Oregon OAR's supported this person centered principle of freedom choose	<input type="checkbox"/> Review all related OAR's <input type="checkbox"/> Review and revise as needed disclosure, residency agreement, resident handbook, and policies related to creating person centered service plans. <input type="checkbox"/> Distribute to all current residents/families. <input type="checkbox"/> Address at resident council.	Name	__/__/__
<b>Choice of Roommate</b>		<input type="checkbox"/>		
<i>Effective *</i> OAR 411-054-00027(2) HCBS Rights <i>Current</i> OAR 411-043-00027 (1) (b) (c) (e) (g) (m) (n) (r ) OAR 411-054-0034 & 36 Resident Evaluation & Service Plan	When sharing a room (RCF) there is a choice of roommate. Do not have to accept a roommate chosen for you. Resident may request a new roommate. Roommate requesting new roommate would need to move or relocate. Providers are not required to have all private rooms or convert rooms to private.	<input type="checkbox"/> Review related OAR <input type="checkbox"/> Review related Guide on DHS HCBS website <input type="checkbox"/> Review policy and practices re: roommates. Update as appropriate. <input type="checkbox"/> Create a policy for introducing potential roommates, requests for new roommates. <input type="checkbox"/> Communicate new policy to current residents	Name	__/__/__

<b>Risk Agreement</b>				
Effective 6/28/2016 OAR 411-054-0036 Service Plan General	Terminology change. The term “managed” was dropped. No longer called a Managed Risk Agreement, just “Risk Agreement”.  The licensing policy analyst must be consulted and alternatives reviewed <u>before</u> the resident signs the MR agreement.	<input type="checkbox"/> Review OAR <input type="checkbox"/> Update forms and remove the term “managed”. <input type="checkbox"/> Updated policy & procedure. Include step for notification of DHS Policy Analyst. <input type="checkbox"/> Train all affected staff.	Name	__/__/__
<b>Lockable Doors</b>				
OAR 411-054-0200 & 300 RCF & ALF Building Requirements The OAR addressing locks was revised 6/2015. Any new buildings post 6/2015 were subject to new standard. 1/15/2017 is the effective date for existing buildings. OAR 411-054-0005 Definitions (21) Dignity, (55) Privacy  Any limitation on a lock should be addressed in the resident assessment and service plan until the implementation date.	A living unit (apt or room) must have a door that can be locked. Resident can choose not to use the lock Lock must be: Single action Meet current code and applicable state and safety standards. Can be limited using Individually based limitation (IBL).	<input type="checkbox"/> Review related OAR’s <input type="checkbox"/> Install locks on all doors. <input type="checkbox"/> If you have not completed request a waiver or submit an action plan for compliance since deadline has passed. <input type="checkbox"/> Evaluate any resident who may have a health or safety issue that prevents them from using lock. <input type="checkbox"/> Evaluations and service planning must be Individualize, not blanket review i.e. anyone with dementia cannot use the lock. <input type="checkbox"/> Review and update disclosure, residency agreements and handbooks at applicable.	Name	__/__/__
<b>Other Key Concepts</b>				

Person Centered Service Plan (PCSP)				
<p>OAR 411-004-0030  <i>Person Centered Service Plans</i>  OAR 411-054-0005 <i>Definitions</i>  <i>(16) Choice (21) Dignity (35)</i>  <i>Independence (40) Individuality (52)</i>  <i>Person Centered Service Plan (53)</i>  <i>Person Centered Service Plan</i>  <i>Coordinator (55) Privacy (67) Service</i>  <i>Plan (68) Service Plan Team</i>  OAR 411-054-0034  <i>Resident Move in &amp; Evaluation</i>  OAR 411-054-0036 <i>Service Plan</i></p>	<p>OAR's supported this concept prior to adoption of HCBS. Evaluations and service plans must consider resident lifestyles, customary routines, and support their choices and preferences.</p> <p>Medicaid Residents PCSP is completed by the Case manager aka Person Centered Service Plan Coordinator.</p> <p>Private Pay residents PCSP is completed according to present ALF/RCF evaluation and service planning OAR standards.</p>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Review service plan related OAR's in 411-054 and 411-004.</li> <li><input type="checkbox"/> Review resident evaluation and service plan policies, processes and tools.</li> <li><input type="checkbox"/> Does the community evaluation and service planning system capture all OAR required evaluation and service planning elements?</li> <li><input type="checkbox"/> Assure there are questions, prompts to capture resident choice and preferences.</li> <li><input type="checkbox"/> Do you have a set of questions for general routine preference i.e. time of day for bathing, food preferences, activities/life enrichment?</li> </ul>	<p>Name</p>	<p>___/___/___</p>