**Department of Health Services State of Wisconsin**

Division of Quality Assurance Wis. Admin Code § DHS 105.14

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# Attestations of Compliance with Home and Community Based Service (HCBS)

Instructions: The Home and Community-Based Services (HCBS) settings rule was published in by the Centers for Medicare & Medicaid Services (CMS). The federal requirements define the qualities of settings eligible for reimbursement for Medicaid home and community-based services. Under the requirements, DHS must ensure that settings in which HCBS are provided meet and remain in compliance with the settings rule requirements. Additional information regarding HCBS waiver requirements and regulations can be found at: <https://www.dhs.wisconsin.gov/hcbs/nonresidential.htm> or the federal regulations at 42 CFR § 441.301

### Compliance Status

*Check each statement below when compliance is met.*

1A. Setting has at least two of the following at or near the setting:

• Sidewalks

• Pedestrian roads

• Signage

• Curb cuts and

• Accessible ramps (or equivalent)

If not, setting has a plan in place and implements the plan to access the broader community.

*Documented Evidence or Interview:*

Meets benchmark:

Yes  No, explain:

1B. Setting has access to a variety of community-based activities that provide a measure of psycho-social value to individuals. Examples of where such activities can take place may include, but are not limited to:

• Parks

• Schools and/or colleges/universities

• Library

• Community center

• Job center

• Restaurants

• Stores

If not, setting has a plan in place and implements the plan to access the broader community.

*Documented Evidence or Interview:*

Meets benchmark:

Yes  No, explain:

2A. Setting provides daily interaction with people from the broader community who do not receive HCBS services and are not paid to provide support.

*Documented Evidence or Interview:*

Meets benchmark:

Yes  No, explain:

2B. People receiving HCBS have opportunities for individualized or small group activities in and outside the setting with people without disabilities in addition to congregate activities.

*Documented Evidence or Interview:*

Meets benchmark:

Yes  No, explain:

3A. People may choose to receive their medical treatments in the same places as other without disabilities and are not mandated to use services that may be provided by the setting.

*Documented Evidence or Interview:*

Meets benchmark:

Yes  No, explain:

4A. Setting provides people the same degree of access to the community as people not receiving HCBS, including staff and volunteers.

*Documented Evidence or Interview:*

Meets benchmark:

Yes  No, explain:

5A. Setting offers opportunities to experience activities that promote new learning related to areas of interest identified by person.

*Documented Evidence or Interview:*

Meets benchmark:

Yes  No, explain:

5B. Setting allows people receiving HCBS to request time off for any reason including illness.

*Documented Evidence or Interview:*

Meets benchmark:

Yes  No, explain:

6A. Settings does not have rules to restrict freedom of movement inside or outside the setting that can be considered different than people not receiving HCBS. Any restrictions must be documented in the individual’s person-centered assessment, plan, and behavior support plan.

*Documented Evidence or Interview:*

Meets benchmark:

Yes  No, explain:

7A. The setting provides or supports access to accessible public transportation to and from facility to the broader community. If public transportation is not available, the setting provides and posts information, in a convenient location, about resources to access the broader community.

*Documented Evidence or Interview:*

Meets benchmark:

Yes  No, explain:

7B. The setting provides transportation for individuals receiving HCBS to the broader community when requested, within reason, or provides and posts information, in a convenient location, about transportation options to individuals if setting does not provide transportation.

*Documented Evidence or Interview:*

Meets benchmark:

Yes  No, explain:

8A. Setting provides tasks and activities both inside and outside the setting that are comparable to tasks and activities for people of similar ages who do not receive HCBS.

*Documented Evidence or Interview:*

Meets benchmark:

Yes  No, explain:

8B. Individuals are able to decline to participate in activities.

*Documented Evidence or Interview:*

Meets benchmark:

Yes  No, explain:

9A. Setting provides:

• A secure place for people to store their personal belongings

• Opportunity for people to choose where they keep their monetary resources in the same ways as people not receiving HCBS, and

• Decision making opportunities for spending one’s own money onsite or in the community.

This may include provision of vending machines, a cafeteria, access to restaurants and/or shopping opportunities.

*Documented Evidence or Interview:*

Meets benchmark:

Yes  No, explain:

10A. Setting adapts activities and schedules to the person’s needs and preferences upon request. This includes:

• Offering both community-based and facility-based options at various times throughout the day to allow flexibility for people receiving HCBS to choose where their services take place.

• Using adaptive aids and technology to assist in activity participation, **and** other accommodations to meet the individual’s needs within the scope of the setting’s responsibilities.

*Documented Evidence or Interview:*

Meets benchmark:

Yes  No, explain:

11A. Setting has practices, procedures, and policies to ensure:

• All information about individuals receiving waiver funded HCBS services is kept private and confidential

• Individuals have privacy when receiving assistance with personal cares; and

• Staff receive training on confidentiality upon hire and annually thereafter.

*Documented Evidence or Interview:*

Meets benchmark:

Yes  No, explain:

12A. Setting ensures staff remain discreet and respectful at all times, including:

• Addressing individuals in the manner in which they would like to be addressed

• Using a person’s preferred name, nickname or title

• Not talking about a person receiving HCBS in the presence of others and

• Not discussing individuals as if he/ she were not present

*Documented Evidence or Interview:*

Meets benchmark:

Yes  No, explain:

13A. Settings using restraints or restrictive measures must:

• Have a policy that matches state restrictive measures policies

• Use them in accordance with Wisconsin policies

• Use them only as approved by DHS and if not approved, does not use and

• Report emergency use of restrictive measures to the waiver agency as an incident.

Settings that do not use restraints or restrictive measures are exempt from meeting this benchmark.

*Documented Evidence or Interview:*

Meets benchmark:

Yes  No, explain:

14A. Setting has practices and policies in place to ensure that staff respond to people’s needs and preferences, as identified in their person-centered assessment and plan, in a timely manner.

*Documented Evidence or Interview:*

Meets benchmark:

Yes  No, explain:

15A. Setting ensures person-centered behavior support plans are implemented in such a way as to not impede the rights of other individuals or restrict others from setting activities.

*Documented Evidence or Interview:*

Meets benchmark:

Yes  No, explain:

16A. Setting ensures that people who receive HCBS make meaningful choices in their daily activities, which align with their personal goals, interests, and needs.

Meaningful choices may be made in a variety of ways including:

• Person-centered assessments,

• Formal interviews or

• Informal discussion with person, and

• Consideration of input from legal decision maker or others as identified by the individual.

*Documented Evidence or Interview:*

Meets benchmark:

Yes  No, explain:

17A. Setting offers a variety of places in the physical environment to meet an individual’s goals and needs. Activities cannot take place in the same room, but rather in a variety of at least two distinct areas, with at least one allowing for privacy. Options include:

• Indoor or outdoor gathering spaces,

• Large or small group activity areas,

• Private space or

• Quiet areas

*Documented Evidence or Interview:*

Meets benchmark:

Yes  No, explain:

18A. Setting offers:

• An array of comparable tasks and activities

• The flexibility to adjust as needed

• Comparable assessment tools and

• Communication approaches for people of similar age, skills, and abilities

*Documented Evidence or Interview:*

Meets benchmark:

Yes  No, explain:

19A. Setting provides and posts information about:

• Individual rights

• How to make a request for additional services, accommodations, or changes to their person-centered, setting-specific assessment and plan.

• Competitive Integrated Employment.

<https://dwd.wisconsin.gov/dwd/publications/dvr/pdf/dvr-19024-p.pdf>

*Documented Evidence or Interview:*

Meets benchmark:

Yes  No, explain:

20A. Setting is accessible per the Americans with Disabilities Act (ADA). If ADA allows exceptions, setting must have a reasonable accommodations policy.

*Documented Evidence or Interview:*

Meets benchmark:

Yes  No, explain:

21A. Setting ensures that people who receive HCBS have access to a dignified, age-appropriate dining experience. This includes:

• A meal setting where people can move about, talk to others and be comfortable.

• A dignified approach to assistance with pace, food sequence and refusal of food items when setting assists people to eat.

• Use of appropriate clothing protection, if needed.

• Allowing consumption of snacks and meals for people receiving HCBS like others in a similar setting. And

• Opportunities for private dining if requested.

*Documented Evidence or Interview:*

Meets benchmark:

Yes  No, explain:

21B. Settings must arrange for or provide meals, including alternative choices, if requested.

*Documented Evidence or Interview:*

Meets benchmark:

Yes  No, explain:

22A. The setting will:

• Not restrict social interactions or set time limits on who people can talk to and spend time with in or outside the setting.

• Allow people to spend as much of their free time as they like with whomever they choose.

*Documented Evidence or Interview:*

Meets benchmark:

Yes  No, explain:

23A. Setting provides informed choice opportunities for people receiving HCBS to practice decision making and to be as autonomous as possible.

*Documented Evidence or Interview:*

Meets benchmark:

Yes  No, explain:

24A. Setting allows flexibility for people receiving HCBS to choose with which staff they would like to work, within reason, that doesn't negatively impact the quality of services being provided to others in the setting.

*Documented Evidence or Interview:*

Meets benchmark:

Yes  No, explain:

25A. Setting offers people opportunities to:

• Make their own schedules and

• Update and change their daily schedules upon request and at the person’s six- month review.

Setting must document these choices and options for each person.

*Documented Evidence or Interview:*

Meets benchmark:

Yes  No, explain:

26A. Setting has documented policies, procedures, and practices to ensure the person receiving HCBS is supported and involved in developing person-centered, setting-specific assessments and plans to support their needs and preferences.

*Documented Evidence or Interview:*

Meets benchmark:

Yes  No, explain:

27A. Setting has policies, procedures, and practices in place to ensure that staff is trained upon hire and annually in:

• Person-centered assessment and planning strategies

• Individual and human rights, including how to support people to assert their rights and file grievances

• Working with the target population

• Using individualized communication styles and utilization of assistive technology

*Documented Evidence or Interview:*

Meets benchmark:

Yes  No, explain:

28A. The setting allows prospective participants the opportunity to tour the setting.

*Documented Evidence or Interview:*

Meets benchmark:

Yes  No, explain:

**Heightened scrutiny criteria**

Is the setting:

• In a publicly or privately owned facility providing inpatient care (such as a skilled nursing facility)?

• On the grounds of, or adjacent to, a public institution?

• Isolated from the broader community?

Definitions found at: <https://www.dhs.wisconsin.gov/hcbs/heightened-scrutiny.htm>

*Documented Evidence or Interview:*

Meets benchmark:

No  Yes, explain:

**Attestation**

The signatory of this document is duly authorized by the applicant/certificate holder to sign this agreement on its behalf. The applicant/certificate holder hereby accepts responsibility for knowing and ensuring compliance with all certification and operational requirements for this program.

I attest, under penalty of law, that the information provided above is truthful and accurate to the best of my knowledge.

I understand that knowingly providing false information or omitting information may result in denial of licensure, a fine of up to $10,000, or imprisonment not to exceed six years or both (Wis. Stat. § 946.32).

**Signature** (In full) — Applicant or Designee (must be owner or board member):

Date Signed:

**Name** — Applicant or Designee (print or type):

**Title** — Applicant or Designee (must be owner or board member):