

**Wisconsin Medicaid Standards
for Certified 1-2 Bed
Adult Family Homes**



**STATE OF WISCONSIN
DEPARTMENT OF HEALTH SERVICES
Division of Medicaid Services**

P-00638 (12/2025)

Standards for Certified 1-2 Bed Adult Family Homes

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I. Introduction

A. Authority and purpose

In 2014, the federal Centers for Medicare & Medicaid Services (CMS) issued rules defining the qualities of settings eligible for reimbursement for Medicaid home and community-based services. Under these requirements, the Wisconsin Department of Health Services (DHS) must ensure that 1-2 bed adult family home (AFH) providers meet and remain in compliance with the home and community-based services (HCBS) settings requirements.

These standards are issued under the authority of the approved HCBS Waiver programs operated by DHS.

The authority for establishing these standards for use by the funding sources (other than the Medicaid HCBS Waivers) is pursuant to [Wis. Stat. § 46.036](#). This permits DHS to establish standards for services used by DHS and by county governments in the programs covered by the state and county grant award contract. These standards are also issued so that DHS is in compliance with [Sec. 1616\(e\) \[42 U.S.C. 1382e\]](#) of the Social Security Act, which requires states to have and publish standards for any residential facility or home where significant numbers of Supplemental Security Income (SSI) recipients reside.

These standards are intended to protect and promote the health, safety, and welfare of individuals residing in and receiving support, services, and supervision in these settings. Certification pursuant to these standards is required as a condition of reimbursement for all providers included within these standards under Medicaid HCBS Waiver programs and all other funding sources.

B. Applicability

These standards apply to the Wisconsin DHS managed care organizations (MCOs) operating Family Care, Family Care Partnership, and Program of All-Inclusive Care for the Elderly (PACE); IRIS (Include, Respect, I Self-Direct) program; and the county agencies that certify and serve as placing agencies for AFHs. The standards also apply to AFH providers, operators, substitute, and/or respite care providers, staff who work in an AFH covered by these standards, as well as the residents served in the AFH and their legal decision-makers.

C. Definitions

1. **Activities of daily living (ADL):** Bathing, dressing, eating, mobility, and transferring from one surface to another such as bed to chair and using the toilet.
2. **Adult:** "Adult" means an individual 18 years of age or over except that it **does not** mean either of the following:
 - a. An individual 18 years of age or over whose placement in a home licensed under [Wis. Admin. Code chs. DCF 56](#) or [57](#) is funded by state or federal

- foster care funds or youth aid funds under [Wis. Stat. § 48.645](#), and who was placed in the home while under 18 years of age and became 18 years of age while a resident of the home.
- b. An individual 18 years of age or older who is a resident of a facility licensed under [Wis. Admin. Code ch. DCF 52](#).
 3. **Adult family home (AFH):** A 1-2 bed AFH may either be an owner operated or a corporate adult family home, both of which are defined in this Article.
 4. **AFH person-centered service and support plan:** The individualized resident’s plan that is created with the resident, legal decision-maker, AFH, and anyone else identified by the resident that considers the resident’s expressed interests, needs, preferences, and concerns. The plan conveys the resident’s aspirations, goals, and the support they need to achieve them. The resident remains in the center of services, supports, and care, and their support must be collaborative. The plan also describes the amount and type of support or service that will be provided in and/or by the providers, operator, or staff of the AFH, as well as the way the support and service are delivered.
 5. **Applicant:** Any person or provider agency applying for AFH certification.
 6. **Caregiver:** The provider, operator, any staff, or any household members, who have regular, direct contact with residents of the AFH, whether the caregiver resides in the home. “Regular” means contact that is scheduled, planned, expected, or otherwise periodic. “Direct” means face-to-face physical proximity to a resident.
 7. **Care manager, case manager, or support and service coordinator:** The person who has primary responsibility for arranging, coordinating, managing, and monitoring the needed services and supports received by a resident, including services provided outside of the AFH. Care managers are also responsible for assuring the health, safety, and welfare of the program participants or members who are residents of the AFH. (**Note:** Care managers may be part of an interdisciplinary staff team performing the functions listed.)
 8. **Certifying agency:** An agency authorized by these standards or DHS to certify and recertify AFHs according to these standards. Agencies authorized to certify AFHs using these standards are a managed care organization, a county agency, DHS, or approved DHS subcontractors.
 9. **Corporate AFH:** A provider-controlled setting, or a provider-owned or-operated residence where one or two adult residents reside and receive support and services above the level of room and board from staff employed by the entity (e.g., LLC) or agency that owns or operates the AFH. The staff employed by the entity or agency that owns or operates the AFH may reside in the residence.

- 10. Conflict of interest:** A conflict of interest means a situation where a person or entity involved in the placement of an individual into an AFH has a direct or indirect interest in or the potential to benefit from that placement decision. A conflict of interest includes, but is not limited to, the following:
- The person, agency, or entity that serves as the legal decision-maker of an adult also serves as the potential provider.
 - The legal decision-maker is an employee of the provider or placement agency that provides services to that legal decision-maker's or employee's ward.
 - The same entity or individual receives funds from the resident and manages the resident's finances or makes any decisions that result in the agency or entity receiving participant funds, (e.g., cost share, room and board payment). This excludes nominal funds given to a provider, operator, or staff to finance routine recreational or other community activities.
 - The same person or entity is the legal decision-maker and is compensated for providing services to their ward.
- 11. County agency:** A county department of social services established under [Wis. Stat. § 46.215](#) or [Wis. Stat. § 46.22](#), a county department of human services established under [Wis. Stat. § 46.23](#), a county department of community programs established under [Wis. Stat. § 51.42](#), a county department of developmental disabilities services established under [Wis. Stat. § 51.437](#), a county department of aging, or the tribal governing body of a federally recognized American Indian tribe or band under [Wis. Stat. § 46.2805\(11\)](#).
- 12. Day:** Calendar day unless otherwise specified.
- 13. DHS:** The Wisconsin Department of Health Services.
- 14. DHS review committee:** DHS review committee designated to approve or deny certifying or placing agency's exception requests.
- 15. Dignity of risk:** The dignity of risk is the right of the individual to take risks when participating in life experiences and understanding that all experiences may not be positive.
- 16. Exception request:** A request submitted to the DHS review committee by a placement or certifying agency on behalf of an AFH provider that may allow the AFH provider to be exempted from meeting one or more of the standards identified by an * (asterisk) in the AFH articles.
- 17. Home and community-based services (HCBS):** HCBS are services authorized under an approved Section 1915(c) waiver or other appropriate Medicaid authority to provide long-term support to beneficiaries in their own home or community rather than institutions or other more isolated settings.
- 18. Household member:** Any person living in an adult family home who is not a resident. This includes individuals related to the owner or operator of the AFH

receiving supportive home care services but not individuals who receive AFH services.

- 19. HCBS Settings Rule Modification:** Modification of a requirement in the HCBS Settings Rule for an additional condition under [42. C.F.R. § 441.301\(c\)\(4\)\(vi\)\(B\) through \(D\)](#) for an individual resident that is supported by a specific assessed need and justified in both their long-term care person-centered service and support plan and the AFH person-centered service and support plan.
- 20. Interdisciplinary team staff (IDT):** The residents care team when enrolled within a managed care organization (MCO) which includes the care manager and registered nurse.
- 21. Informed consent or consent:** Written consent voluntarily signed by a resident or prospective resident who is competent and who understands the terms of the consent or by the resident's or prospective resident's legal decision-maker. Includes temporary oral consent obtained by telephone in accordance with [Wis. Admin. Code § DHS 94.03\(2m\)](#).
- 22. Instrumental activities of daily living (IADLs):** Management of medications and treatments, meal preparation and nutrition, money management, using the telephone, arranging and using transportation, and the ability to function at a job site.
- 23. IRIS Consultant:** The person who supports the IRIS participant in self-direction, which includes enrollment and orientation, service planning, plan development, quality monitoring, coordination with fiscal employer agents (FEAs), ongoing support and assistance, and continued eligibility assistance. IRIS consultant's role does not include **placing** or **discharging** residents from an AFH.
- 24. Legal decision-maker:** A resident's or potential resident's legal decision-maker is a person who has the legal authority to make certain decisions on their behalf. A legal decision-maker may be a guardian of the person or estate (or both) registered under [Wis. Stat. ch. 53](#), a guardian of the person or estate (or both) appointed under [Wis. Stat. ch. 54](#), a conservator appointed under [Wis. Stat. ch. 54](#), a person designated power of attorney for health care under [Wis. Stat. ch. 155](#) or a person designated durable power of attorney under [Wis. Stat. ch. 244](#). In any provision of these standards in which the term "legal decision-maker" is used, it applies only to a person who possesses the legal authority relevant to that provision. A person designated by the resident or potential resident as an "authorized representative" under [42 C.F.R. § 435.923](#) for assisting with Medicaid application and recertification of eligibility is not a legal decision-maker.
- 25. Long-term care person-centered service and support plan:** A resident's person-centered service and support plan developed with the prospective resident or resident in cooperation with the MCO, IRIS consulting agency (ICA), or

County, as applicable. The plan identifies all the resident's services and supports provided to them including those provided by the AFH and includes unpaid and informal supports. Person-centered plan requirements are outlined in [42 C.F.R. § 441.725](#). The name of this plan varies by program. It may be referred to as the member-centered plan (MCP) in Family Care, Family Care Partnership, PACE and the person-centered individual service and support plan (ISSP) for IRIS. Other programs may call it an individual service plan (ISP).

- 26. Medicaid waiver program:** Medicaid HCBS long-term care programs authorized under Section 1915(c) of the Social Security Act. For the purposes of these standards this includes programs such as Children's Long-Term Care Services (CLTS), IRIS, Family Care, Family Care Partnership, and PACE.
- 27. Non-ambulatory:** An inability to walk without the use of a wheelchair or other device that assists with mobility and makes prompt evacuation of the home difficult.
- 28. Operator:** A person who is employed by the corporate AFH's sponsoring entity or agency and who works in and has primary responsibility for the day-to-day operation of a corporate AFH. An operator is responsible for in-home supervision and direction of the work of the home's other staff, for ensuring that the resident's AFH person-centered service and support plan are being correctly implemented, and for assuring the health, safety, and welfare of each resident(s). An operator is not an off-site area or regional supervisor overseeing more than one home. An operator is positioned on-site and may accompany residents in the home to places in the community.
- 29. Owner operated AFH:** A primary residence of the owner or operator who provides AFH services and supports above the level of room and board to one or two adult residents.
- 30. Placing agency or placement agency:** An agency responsible for facilitating the placement of a resident into an AFH. Placing agencies are responsible for authorizing ongoing services, individual monitoring, incident management, and complaint handling. Placing agencies are often the source of funds used to compensate the home for the support and services they provide. Placing agencies may be considered managed care organizations (MCOs); IRIS consulting agencies (ICAs) (see definition of IRIS consultant); county agencies as specified by [Wis. Stat. § 46.23](#) (Department of Human Services), [Wis. Stat § 46.22](#) (Department of Social Services), [Wis. Stat. § 51.42](#) (Department of Community Programs), and [Wis. Stat. § 51.437](#) (Department of Developmental Disabilities Services established; Integration services); private agencies under contract with any of these entities; or private entities hired by a resident or the resident's legal decision-maker to perform these functions.

- 31. Primary care provider:** A medical provider who provides primary care to the resident from the first point of contact and takes continuing responsibility for overseeing the resident’s overall health care.
- 32. Provider:** The person, people, or agency that applies for and receives AFH certification.
- 33. Relative:** A spouse, parent, step-parent, child, step-child, sibling, grandchild, grandparent, aunt, uncle, niece, or nephew.
- 34. Resident:** An adult related or not related to the provider who resides and intends to remain in the AFH to receive AFH support and services above the level of room and board provided from the operator, provider, or staff.
- 35. Respite care:** For these standards, respite care has two different meanings:
Respite:
a. Short-term AFH respite care provided to one or two additional people who temporarily stay in the AFH requiring expansion of the capacity of an AFH by up to two additional beds.
Relief:
b. The provision of relief to an AFH’s provider or operator by a substitute provider in owner operated AFHs.
- 36. Respite resident:** A resident who does not permanently reside in an AFH but who is receiving respite care in a certified AFH.
- 37. Revocation:** Withdrawing the approval of the AFH’s certification for violations of one or more of the terms in these standards or other incident(s) that could affect the health, safety, and welfare of the resident.
- 38. Secretary:** “Secretary” refers to the Secretary of the federal Department of Health and Human Services.
- 39. Skilled nursing services:** Professional nursing services furnished pursuant to a physician's orders which require the skills of a registered nurse or licensed practical nurse licensed under [Wis. Stat. ch 441](#) and which are provided either directly by or under the supervision of the registered nurse or licensed practical nurse.
- 40. Substitute provider:** A person designated by the provider or operator to temporarily take primary responsibility for the operation of the AFH when the provider or operator is temporarily unable or unavailable to provide services, supports, and cares for any reason.
- 41. Treatment:** means those psychological, educational, social, chemical, medical, or somatic techniques designed to bring about rehabilitation of a mentally ill,

alcoholic, drug dependent or developmentally disabled person. See [Wis. Admin. Code § DHS 94.02\(44\)](#) and [Wis. Stat. § 51.01\(17\)](#)

II. Certifying Agency: Qualifications and Responsibility

A. Qualifications

Each certifying agency must have:

1. **Dedicated staff:** Dedicated staff are the people identified by the certifying agency who are assigned to conduct certification reviews of prospective AFHs, recertification reviews of current AFHs, and to operate the other elements of the AFH program specified in [Article II.B.5](#). Such staff may be employees of the agency or authorized by a contract to conduct the reviews of a prospective home or current AFH on behalf of the agency.
2. **Trained certification staff:**
 - a. **Training plan:** A DHS approved written training plan for certification staff is required and must address the following:
 - 1) How and when dedicated staff will be trained.
 - 2) Detail about at what point in the training each staff will enter the field to conduct certifications.
 - 3) Indicate, at a minimum, that staff must receive initial and on-going training in the areas specified in this article prior to commencing the certification process.
 - b. **Contents of training plan:** The plan must cover how training will be provided in the following subjects:
 - 1) The Wisconsin Medicaid Standards for Certified 1-2 bed AFHs and **all referenced standards or administrative rules as identified in this document**, including home and community-based settings requirements found in [42 C.F.R § 441.301\(c\)\(4\)](#).
 - 2) Practices, principles, and services to support target populations such as intellectual/developmental disability (I/DD), physical disability (PD), frail elder (FE), severe and persistent mental illness (SPMI), and alcohol and other drug addiction (AODA) including:
 - a) Understanding of emotional, physical, social, and psychosocial needs of the target populations served.
 - b) Person-centered and strength-based planning and support.
 - c) Individual cultural and identity considerations.
 - d) Risk factors affecting health and safety including recognition of signs of abuse, neglect, exploitation, and mistreatment.
 - i. Adult Protective Service (APS) role and response to reports and investigations.
 - e) Resident rights included in [Article IX](#).
 - f) Individual choice and autonomy.
 - g) Trauma informed care.
 - h) Ethics and boundaries.
 - i) Health insurance portability and accountability act (HIPAA).
 - j) Basic health care practices including common medications and side effects, medication administration, and basic dietary

principles and requirements.

- k) Behavior support plan principles, including those associated with the use and avoidance of using restrictions and restrictive measures, including isolation, chemical, and physical restraints. Including dignity of risk, when considering rights restrictions. See the [Restrictive Measures Guidelines and Standards, P-02572](#) for further guidance.
 - l) Medication management content in [Article VII.I.1-3](#).
 - m) Conflict of interest included in [Article V.E](#).
 - n) Survey and investigative methods and techniques.
 - o) Interviewing techniques, which may include motivational interviewing.
- c. **Ongoing Training:** Provision of training should be ongoing, with staff receiving training on [Article II.A.2.b.2\) a\)-o\)](#) topics on an annual basis to keep current with the best practices used in this field.
3. **Documentation:** The certifying agency must maintain staff-specific documentation that each person who conducts certification review has received the requisite training required by these standards. This documentation must be made available upon request to DHS or to placement agencies that currently provide or have provided funding for residents in AFHs certified by this agency.

B. Certifying Agency Responsibilities

1. **Certifying service area:** Each certifying agency may certify anywhere in Wisconsin.
2. **Receive applications:** Each certifying agency will accept applications to certify 1-2 person AFHs from prospective AFH provider(s) that comply with the certifying agencies application process. Upon receipt of such applications, the certifying agency must either:
 - a. Certify the applicant in accordance with [Article II.B.3.](#), or
 - b. Notify the applicant that their application has been declined, including reason for denial of certification.
3. **Initial certification process involves:**
 - a. A review of application materials on the DHS approved form(s) submitted by the applicant to determine if the material meet the standards, including background checks.
 - b. An onsite visit to validate application materials and observe the home.
 - c. Use of established procedures and professional judgment to determine the level of compliance with all administrative, operational, and home requirements, including quality of care and quality of life.
 - d. Identifying and communicating about noncompliance when deficiencies are found.
 - e. Certification program management that includes actions having bearing on a home's certification status. These actions may include denial of initial

- certification or the imposition of conditions of approval or corrective actions.
 - f. Explanation of the request for administrative review process required by these standards.
 - g. Conducting appeal process required by these standards.
 - h. Determining compliance with the requirements of [42 C.F.R. § 441.301\(c\)\(4\)](#) if AFH intends to serve individuals participating in the Medicaid HCBS waiver programs.
 - i. Issuing certificate to compliant AFHs seeking certification.
4. **Recertification process involves:**
- a. Annual certification.
 - b. Reviewing relevant application materials on the DHS approved form(s) provided by the certifying agency. AFH is responsible for completing the application materials.
 - c. Annual on-site visit to the AFH to verify application materials and to observe the home.
 - d. Using established procedures and professional judgment to determine the level of compliance with all administrative, operational, and home requirements, including quality of care and quality of life.
 - e. Identifying and communicating about noncompliance when deficiencies are found.
 - f. Certification program management that includes actions having bearing on a home's certification status. These actions could include revocation of the certification of an existing AFH, denial of recertification, or the imposition of conditions of approval or corrective actions.
 - g. Conducting appeal process required by these standards.
 - h. All requirements under [Article VI.E](#).
 - i. Determining compliance with the requirements of [42 C.F.R. § 441.301\(c\)\(4\)](#) if AFH intends to serve individuals participating in the Medicaid home and community-based waiver programs.
 - j. Issuing certificate to compliant AFHs seeking recertification.
5. **Other responsibilities of AFH certifying agency:** In addition to certification-related activities, the certification agency's role may include the following activities:
- a. Recruiting of homes.
 - b. Assisting placement agencies to place individuals in AFHs certified by that certifying agency.
 - c. Providing or arranging for training of personnel in the AFH as required by these standards or as needed to effectively serve specific individuals or target groups that are placed in the AFH. The latter training may be done in cooperation with the placement agency.
 - d. Receiving and attempting to resolve complaints regarding an AFH. If the certifying agency is unable to resolve complaints, requests for additional consideration may be sent to: dhsirisafh@dhs.wisconsin.gov for the IRIS program; dhsdmsltc@dhs.wisconsin.gov for Family Care, Family Care

Partnership, and PACE; and to Area Administration at DHSAreaAdmin@dhs.wisconsin.gov for County Human Service complaints.

III: Certification

A. General requirements

1. Certification must be completed initially and renewed annually using the DHS approved certification and recertification process required by the certifying agency.
2. No person or agency may operate an AFH and receive reimbursement from any DHS funding source unless a qualified certifying agency determines that the home is compliant with all requirements of these standards and the provider, operator, agency, or entity has received a compliance certificate from a qualified certifying agency.
3. No AFH may be required to be certified by more than one qualified certifying agency if the AFH's certification is current.
4. A certifying agency is not required to certify or recertify a home if the certifying agency has no current or prospective placements in the home.
5. If an AFH reapplies, the certifying agency will consider it a new applicant.
6. Prior approval by the certifying agency is required for all program changes. If an AFH seeks to make any change in its program, the provider or operator must revise their program statement. When making a change in the program, the provider or operator must first notify all current residents and their legal decision-makers 60 days prior to the intended effective date for implementing the proposed change(s). The proposed change(s) and revised program statement along with any other materials requested by the certifying agency must be submitted to the certifying agency for approval 60 days prior to implementing the proposed change. A change in the program that adversely impacts one or more residents in a significant way or poses a threat to any resident's health, safety, or welfare may be grounds for a placing agency to terminate placement and for a certifying agency to reconsider certification.
7. At the discretion of the certifying agency, a review and/or onsite review may be scheduled at any time for any reason.

B. Certification requirement for provider-controlled settings

Homes classified as a provider-controlled setting must be certified as a 1-2 Bed AFH. A provider-controlled setting is a setting in which 1 or 2 residents who are not related to the provider or operator reside and receive support and services above the level of room and board, and:

- a. The provider has a direct or indirect financial relationship with the property owner but does not lease or own the property, or
- b. The landlord has influence over which service providers the resident uses, or
- c. The provider or operator of the AFH holds the lease or title to the home.

C. Certification and recertification application requirements

1. **Process:** Certification and recertification application templates must be approved by DHS. The application submitted to the certifying agency must include all requested information, the date of application submittal, and must be signed by

the applicant.

2. Previous Certification, Recertification, or Revocation Disclosure:

- a. Any applicant applying for certification or, if requested, any provider or operator applying for recertification must disclose any denials of certification or recertification or any revocations.
- b. The applicant or current provider or operator, or any of the individuals who are proposed to provide services and supports in the home must also disclose any voluntarily surrendered license or certification at any time. The applicant or current provider or operator must also disclose the date, place, and name of the certifying or licensing agency that provided the surrendered license or certificate, as well as information about any charges, orders, sanctions, or penalties.
- c. An applicant may not reapply for certification in Wisconsin within two years after the effective date under any of the following circumstance:
 - 1) Previously denied certification or licensure for cause.
 - 2) A revoked certificate or license.
 - 3) A voluntarily surrendered license or certification for any type of residential provider while facing an active denial, non-renewal or revocation.
 - 4) A notice of denial, non-renewal or revocation action. The notice of denial, revocation, or surrender of the certificate or license will be effective on the date it was issued. Applicants may reapply after 180 days if the denial or non-renewal was made without prejudice or if the applicant provides proof to the satisfaction of the certifying agency that the condition that caused the denial or non-renewal has been corrected.
- d. Failure to disclose a previous denial, non-renewal, revocation, or license surrender is grounds for immediate denial of an initial certificate, non-renewal, or revocation. This does not apply to providers who were denied certification or recertification under [Article III.A.4](#).

3. Caregiver background checks

- a. **Type of checks required:** The following areas will be reviewed by checking the caregiver option on the [Wisconsin Criminal History Single Name Record Request, DJ-LE-250](#) or [Wisconsin Criminal History Multiple Name Record Request, DJ-LE-250A](#) manually or electronically via the Internet. The background check for all subjects must be in accordance with the procedures in [Wis. Stat. § 50.065\(6\)\(a\)\(b\)\(c\)](#) and [Wis. Admin. Code § DHS 12.05](#) and must include:
 - 1) A completed [Background Information Disclosure \(BID\), F-82064](#).
 - 2) A criminal history search from the records of the Wisconsin Department of Justice Wisconsin Online Record Check System [Wisconsin Department of Justice Wisconsin Online Record Check System](#) (WORCS).
 - 3) A search of the Caregiver Registry maintained by DHS.

- 4) A search of the status of credentials and licensing from the records of the Wisconsin Department of Regulation and Licensing, if applicable.
 - b. **Who must be checked:** The certifying agency must ensure that an up-to-date caregiver and criminal background check has been conducted on all applicants or current providers in accordance with [Wis. Admin. Code ch. DHS 12](#). This includes new applicants, the provider or operator seeking recertification, all staff including prospective substitute providers, and all household members who are at or over the age of 18 years. Background checks of people under the age of 18 are at the discretion of the certifying agency. This information must be provided in applications for initial certification and recertification.
 - c. **Effective date and frequency:** Each new applicant caregiver background check for providers, operators, and staff in the AFH must have been completed not more than 90 days prior to the AFH initial date of certification. Required background checks must be done at least once every three years for providers, operators, household members who are 18 years and older, and staff in existing AFHs seeking recertification. Each new staff, at the time of hire and each new household member aged 18 or older must pass the required background checks prior to living or working in the AFH.
 - d. **Cost of a background check:** The cost of a background check may be the responsibility of the provider or operator, as determined by the certifying agency.
 - e. **Results and documentation:** The certifying agency must maintain documentation that a current background check has been completed for the provider, operator, all staff, and household members 18 and older. Please refer to [Wisconsin Background Check and Misconduct Investigation Program: Offenses Affecting Eligibility for Employment or Contract in Roles with Client Contact, P-00274](#) for offenses affecting caregiver or household member eligibility.
 - f. **Disclosure:** Documentation that background checks have been completed for all applicable persons in the AFH, along with the results, must be available upon request for the certifying agency and/or DHS at any time.
4. **Program Statement:** All AFHs must have a program statement submitted with their application for certification or recertification which, at a minimum describes the following:
- a. The target group and number of individuals the applicant is willing to serve including family members.
 - b. Whether the house is physically accessible to individuals who require such accommodations.
 - c. The physical environment and surrounding property that can be accessed by residents who live in the AFH.
 - d. Community resources that can be accessed by residents who live in the AFH with or without transportation assistance.
 - e. Services and supports the AFH offers residents.
 - f. Licenses or certifications held by the provider or operator.
 - g. When respite care is provided in the AFH, the program statement must

include:

- 1) A statement as to the maximum number of respite residents in the AFH at any one time.
 - 2) A description of the physical space within the AFH that will be used for respite residents.
 - 3) How frequently the AFH may be used for respite care.
 - 4) Whether or not the respite care will involve additional staff in the AFH.
 - 5) Whether staff are awake at night.
- h. Household members and their relationship, if any, with the provider or operator.
 - i. A pet policy.
 - j. Disclosure statement if an AFH is a space leased or rented by the provider or operator.
 - k. Additional information the AFH or certifying agency deems appropriate to assist prospective residents or placement agencies to make decisions related to the use of the AFH.

The Program Statement must be submitted to the certifying agency with the application for certification or recertification. The recertification Program Statement must be updated and submitted to the certifying agency to reflect any changes in items listed in [Article III.C.4.a-k](#) or any other substantial changes that would require approval by the certifying agency as outlined in [Article VI.E](#).

D. Certification process for new applicants and recertification for current providers or operators

1. **Document review and on-site inspection:** The certifying agency must review the application and supporting documents, including the caregiver background check(s), meet with and interview the applicant, and conduct an annual on-site inspection of the home to determine if the requirements for certification in these standards are met including requirements of the HCBS settings rule. Inspections should be scheduled at a time when individuals receiving HCBS waiver funding and staff are present in the home. The certifying agency staff should attempt to engage residents, staff, household members, or others associated with and present in the AFH during the visit. The certifying agency may perform an on-site inspection at any time.
2. **Professional inspection:** The certifying agency may require any type of professional inspection if there is cause for concern about whether the home can adequately assure resident health, safety, and welfare. Such inspections may include but are not limited to fire, health, sanitation, or safety inspections. Required inspections must be completed by individuals qualified and credentialed to perform such inspections as determined by the certifying agency. Inspections may focus on the home and premises and, if transportation is to be provided, on vehicles that will be used to transport residents. The cost of these inspections is a cost associated with doing business as an AFH and may be negotiated into the

AFH rate identified by the funding source.

3. **Certification fee:** A certification fee may be assessed by the certifying agency. This fee must be based on the actual cost of performing the required actions involved in certification. The fee charged may be based on the average cost of certifying the home. The certifying fee schedule must be included in or with the application materials. The applicant for initial certification or recertification must be informed verbally and in writing of any fee in advance, including any re-inspection fee. The fee schedule must include a statement as to whether any of the fees may be refundable under specific circumstances. The policy underlying this statement is at the discretion of the certifying agency. A separate cost-based re-inspection fee may be charged for each visit after the second visit if the certification requires more than two visits to assess compliance with a requirement.
4. **Approval of certification:** The certifying agency must indicate approval of the application for certification or recertification by issuing an AFH certificate.
 - a. After a complete application and all supporting documents have been received by the certifying agency and following the completion of the required on-site visit(s), the certifying agency has 30 days to approve or deny the application.
 - b. If a certifying agency is unable to make a compliance determination within 30 days, they may have an additional 30 days to make a certification determination. The certifying agency must communicate this to the AFH. If the completed application and all supporting documents have not been received by the certifying agency within 60 days, the application will be determined incomplete and will not be processed.
 - c. The certification approval will be valid for up to one year. If the approval is for less than one year, the certification fee amount may be negotiated. The certifying agency must show evidence justifying the reduced time frame of the certification. Certifying agencies may conditionally approve the applicant for no more than 60 days.
5. **The AFH certificate:** At a minimum, the AFH certificate must either be displayed in the AFH or be available upon request to the placement agency, resident, or prospective residents of the AFH, and their legal decision-maker(s) and must include the following:
 - a. The number of permanent residents for which the AFH is certified.
 - b. The effective date of the certification and the date on which it expires. The certification cannot be for more than one (1) year.
 - c. The certified AFH address.
 - d. The target group(s) that will be served by the AFH.
 - e. Statement of compliance determination with requirements under [42 C.F.R. § 441.301\(c\)\(4\)](#) if the AFH intends to serve participants within Medicaid home and community-based waiver programs unless the AFH meets the respite only AFH requirements in [Article VII.K.10](#).
 - f. Any special circumstances or conditions, including respite and any approved exceptions.

administrative reviews of the decision to revoke have been completed, the AFH remains certified. This status does not prevent a placing agency from requiring the temporary or permanent removal of a resident from the AFH for any purpose including the purpose of assuring resident's health, safety, or welfare.

4. **Certification agency notification to placement agency:** If the certifying agency revokes the AFH's certification, the certifying agency must immediately notify placing agencies associated with resident(s) in the home of this decision. The notice must include, at a minimum, the reason(s) for the revocation citing the Articles of the standards with which the AFH and/or the provider or operator did/does not comply. This status and the notice period do not prevent a placing agency from requiring the removal of a resident from the AFH for the purpose of assuring resident's health, safety, or welfare.

F. Standards for actions involving certification, recertification, or revocation

1. The certifying agency may deny an AFH's certification at the point of initial application, terminate at the time of recertification, or revoke certification at any time. Such action may be taken if the certifying agency finds that the applicant, operator, or provider has violated or does not comply with these or any other applicable standards, rules, or laws that apply to an AFH in a manner that meets one or more of the following criteria:
 - a. The noncompliance places resident's health, safety, or welfare at risk.
 - b. The noncompliance significantly interferes with or prevents the proper implementation or monitoring of resident's person-centered long-term care or AFH person-centered service and support plan(s).
 - c. The noncompliance involves a violation of the resident's rights involving abuse, neglect, mistreatment, financial exploitation or misappropriation of funds, misuse of restrictive measures including use without DHS approval, or denial of the right to direct the resident's own services.
 - d. There is a pattern of noncompliance in operating the AFH, repeated violation of one or more standards, or repeated failure to successfully complete corrective action plans identified by the certifying agency.
 - e. The applicant, provider, or operator of an existing AFH fails to disclose or misrepresents information on the application for certification or recertification or in the supplemental information that accompanies the application.
 - f. Any individual required to complete a [Background Information Disclosure \(BID\), F-82064](#) and submit to a background check per [Article III.C.3.b](#), refuses to do so, or refuses to allow the certifying agency, placement agency, or fiscal employer agent to conduct out-of state background checks or refuses to provide records related to a criminal background as allowed by questions 1 and 2 of the [Background Information Disclosure \(BID\), F-82064](#) and requested by the certifying agency, placement agency or fiscal employer agent.

2. **Options for certifying agency action involving AFHs that fail to comply with AFH standards**

The certifying agency may adopt any of the following as part of a corrective

action plan imposed on the AFH if it does not meet the standards for certification and placing agencies must be notified of the corrective action plan:

- a. Suspension of any new admissions to the AFH.
- b. Suspension of the AFH certification barring it from having residents present in the AFH, subject to the AFH's completing a corrective action plan.
- c. Denial of the AFH's certification, recertification, or revocation and receive notification according to the requirements of this Article.

G. Standard requirements for revocation or denial notices

The notice of revocation or denial to the applicant, operator, provider(s), and placing agencies involved must be communicated in a timely manner and include the following elements:

1. A statement of the reason(s) for revocation or denial.
2. Citation of the Article(s) of the standards with which the applicant, provider, or operator did not comply, if applicable.
3. Information for the applicant, provider, or operator about the opportunity to request administrative review by the certifying agency of the revocation or denial decision under [Article III.H.](#), if applicable.
4. Statement that the applicant has 15 days after the date of the notice to file a request for the certifying agency administrative review under [Article III.H.](#), if applicable, and informs the applicant, provider, or operator of the steps necessary to initiate such a review.

H. Administrative review

1. **Administrative review by the certifying agency**
 - a. A provider or operator may contest a decision to revoke a certification under [Article III.E.](#) or deny a certification or recertification under [Article III.F.](#)
 - 1) A provider or operator who fails to successfully submit documents for review within the timeframe required by the certifying agency does not qualify to contest a decision to deny a certification or recertification under [Article III.H.](#)
 - b. **Process:** To request an administrative review, the applicant, provider, operator, or legal counsel, must submit to the director of the certifying agency or their designee, a written request for an administrative review of the decision.
 - c. **Content of request:** The request must include a concise statement of the reasons for objecting to the decision made by the certifying agency.
 - d. **Deadline for receipt of request:** A request for certifying agency administrative review must be received by the certifying agency within 15 days of the date on the notice of denial or revocation. The certifying agency may extend the 15-day deadline for any reason at its sole discretion.
 - e. **Certifying agency response:** The certifying agency's written response will state the decision, explain why it was made, and inform the applicant, provider, or operator that if they still disagree with the decision, they may, within 15 days after the date of the certifying agency's decision, request a DHS administrative review of the certifying agency's original decision. The certifying agency has 30 days after the receipt of the request for review to

respond to the applicant, sponsor, or to the applicant's or sponsor's attorney.

I. Administrative review by DHS

1. **The request:** An applicant, provider, or operator may contest the certifying agency's decision. To do so, the applicant, provider, operator, or their legal representative must submit a written request for an administrative review within 15 days of the certifying agency's decision. DHS may extend the 15-day deadline at its sole discretion.

Requests may be sent to:

DHS DMS Bureau of Quality & Oversight, 1-2 AFH Review

1 West Wilson Street, Room 518

PO Box 309

Madison, WI 53701-0309

Email: dhsdmsltc@dhs.wisconsin.gov

2. **Department response:** The deputy director of the Division of Medicaid Services or their designee will issue a written decision to the applicant, provider, operator, or their legal representative and to the certifying agency within 45 days after the receipt of the request for review. DHS may extend the deadline if needed at its sole discretion. The DHS decision will be final. Administrative review by DHS does not prevent a placing agency from removing a resident even if DHS has not yet rendered a decision.

IV. Requirements for the Home

A. Location and access to the community

Per [42 C.F.R. § 441.301\(c\)\(4\)\(i\)](#), the setting is integrated in and supports full access of people 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.

AFHs may be located anywhere residences are permitted in a community. The location of the AFH should take into consideration resident needs to access employment opportunities, community activities, and supportive services. Consistent with the previous paragraph, the AFH must have a plan in place to access the broader community.

Placement decisions will consider access to such modes of transportation as walking or convenient private, or public transportation.

Per 42 C.F.R. § 441.301(5)(v), any setting that is located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment in a building on the grounds of, or immediately adjacent to, a public institution, or in any other setting that has the effect of isolating people receiving Medicaid HCBS from the broader community of people not receiving Medicaid HCBS, will be presumed to be a setting that has the qualities of an institution unless the U.S. Department of Health and Human Services (HHS) Secretary determines through heightened scrutiny, based on information presented by the state or other parties, that the setting does not have the qualities of an institution and that the setting does have the qualities of home and community-based settings.

B. Residents access to and within the building

The AFH must be physically accessible to all current residents and to prospective residents accepted for placement in the home. Residents must be able to enter, exit, and move about the AFH and get to their bedroom, bathrooms, common living and dining areas, and kitchen without difficulty. Non-ambulatory residents living in the AFH must have access to all common areas including living rooms and dining areas. Home modifications, such as ramps, grab bars, and widened doorways, etc., provided to address the non-ambulatory resident's assessed needs must be installed in the AFH prior to and as a condition of that resident's placement. Failure to provide such modifications or adaptations may be grounds for denying or revoking an AFH certification.

C. Home environment

Home and community-based settings must have all the following qualities, and other such qualities as DHS determines to be appropriate, based on the needs of the person as indicated in their long-term care person-centered service and support plan:

1. ***Privacy: a resident's rights of privacy, dignity, and respect must be ensured.**

The AFH must provide space and adequate physical features, such as doors so that residents can have privacy when the resident wishes to be alone and/or undisturbed. Residents have the right to have physical and emotional privacy in living arrangements and in caring for personal needs, including toileting, bathing, and dressing along with unrestricted communications.

2. ***Electronic monitoring or filming:** Provided that the AFH posts signs indicating that monitoring or filming is taking place, electronic video monitoring and filming may only be allowed in the following AFH locations:
 - a. Parking areas.
 - b. Exterior locations where individuals may enter or exit the building.
 - c. Areas that are marked for employees only.
 - d. Storage areas.
 - e. Personnel office that is not accessible to residents.

Electronic video monitoring and filming may be allowed in cooperation with law enforcement on a case-by-case basis, specific to an investigation and pursuant to any necessary permissions, warrants, or other authorizations.

Auditory monitoring, such as baby monitors, may be allowed as indicated in both the AFH person-centered service and support plan and the long-term care person-centered service and support plan.

These standards mirror guidance provided by the Division of Quality Assurance (DQA) regarding the use of electronic recording, video monitoring, or filming equipment in licensed AFHs, community-based residential facilities (CBRFs), or residential care apartment complexes (RCACs). Refer to [Guidance for the use of Electronic Recording, Video Monitoring, or Filming Equipment](#) for more information.

3. **Safety and cleanliness:** The AFH and grounds must be safe, clear of obstructions, free from hazards, clean, well maintained, kept uncluttered, and be free from insects and rodents. The AFH must be capable of meeting all applicable state and local building, fire, and zoning codes. It must be free from dangerous substances or have such substances stored safely and securely.
4. **Household items:** The AFH must have clean, functioning, and safe household equipment, items, and furnishings.
5. **Sufficient space:** The AFH must have space to accommodate all household activities, members, including respite residents, and their possessions comfortably. Residents must have access to a reasonable amount of secure personal storage space.
6. **Common areas:** There must be large common areas with sufficient space and furnishings so that all occupants can comfortably share the space at the same time if desired by residents, including respite residents if applicable.
7. **Mechanical systems:** The AFH must have adequate, safe, and functioning

heating, hot and cold water, fire protection, electrical, plumbing, sewerage, and lighting systems. Indoor temperatures must be set in all seasons to consider the special needs of any resident for warmer or cooler conditions. Higher or lower temperatures must be provided to the extent possible when requested by the resident. Water temperatures are required to always remain between 110-115 degrees. Water temperatures must be checked and logged monthly. Refer to [Hot Water Temperatures in Adult Family Homes, P-01942](#) for more information.

8. **Well water samples:** Where a public water supply is not available, water samples shall be taken from the well and tested at the state laboratory of hygiene or other approved laboratory under [Wis. Admin. Code ch. NR 149](#) at least annually. The AFH shall maintain annual documentation of the testing results.
9. **Garbage removal:** The AFH must have adequate routine removal services, including refuse removal and recycling when possible or required.
10. **Laundry:** The AFH must have or arrange for access to laundry facilities for residents and provide laundry services upon request.
11. ***Windows/ventilation:** The AFH must have adequate ventilation for the health and comfort of all household members. There must be at least one window capable of being opened to the outside in each common room. Windows used for ventilation must be screened during appropriate seasons of the year.
12. ***Limitation on use for business purposes:** The AFH must not be used for commercial, production, retail business, or any other enterprise that regularly brings customers, clients, or support service personnel to the AFH unless it provides a resident with an opportunity to work according to goals established in their long-term care and AFH person-centered services and support plans. The business may not adversely impact resident privacy, uses, or enjoyment of their home, or impact on the provider's, operator's, or other staff member's ability to provide the level of service, support, and supervision called for in resident's AFH person-centered service and support plan.
13. **Weapons:** In accordance with [2011 Wis. Act 35](#), a licensed individual is not prohibited from carrying a concealed weapon, as defined in [Wis. Stat. § 175.60\(1\)\(j\)](#), in his or her own dwelling or on land that he or she owns, leases, or legally occupies. This privilege applies to a resident of an AFH that obtains a permit to carry a concealed weapon. Rifles and/or other weapons that may not be carried as concealed weapons must be stored and physically secured in an area that is not readily accessible to residents. A weapon for which a resident has a permit to carry concealed must also be stored and secured when not being carried by that permit holder. The decision to allow or prohibit weapons in the AFH belongs to the provider or operator of that AFH. The provider or operator must require that the weapons and ammunition, when not being carried by a permit holder, be stored, and locked separately. The provider or operator may decide whether to prohibit visitors from carrying a concealed weapon within the

common areas of the home. If the provider or operator decides to prohibit weapons on the property, they must give notice of that decision, as required by state law, usually done by posting the notice at each entrance to the home. The certifier must provide a visual verification, during the annual site visit, that ammunition is stored separately from weapons, and that those weapons are stored and physically secured.

14. **Carbon monoxide detectors:** Each AFH must have working carbon monoxide detectors on every floor, including the basement. A detector should be located within 10 feet of each bedroom door and there should be one near or over any attached garage. Battery operated detectors must be checked and logged monthly.
15. **Access:** Residents must have an independent access method to enter their home.

D. Bathrooms

1. **Number:** There must be at least one bathroom with at least one sink, toilet, and shower or tub for every eight household members.
2. ***Doors:** The door of each bathroom must have a lock that can be locked from the inside, and able to be opened from the outside in an emergency.

E. Bedrooms

1. **Maximum Capacity:** A resident's bedroom may accommodate no more than two people.
2. ***Floor area for ambulatory residents:** In the event a resident chooses to share a bedroom, the bedroom must have a floor area of no less than 60 square feet per resident. In the event the resident has a single occupancy bedroom, the floor area must be no less than 80 square feet. Based on individual assessment and the AFH person-centered service and support plan, additional space may be required. Provider must submit floor plans to certifying agency to include the square footage of each room including location of each fire extinguisher, carbon monoxide detector, and smoke detector.
3. **Resident privacy:** A resident's bedroom may not be used by any other person to get to any other part of the building or for any use not related to the occupants of the room.
4. ***Bedroom windows:** There must be at least one window in each bedroom. Windows in bedrooms must be capable of being opened to the outside and must be screened for ventilation.
5. ***Limitation on bedroom location:** Hallways, kitchens, living rooms, dining rooms, unfinished basements, closets, passageways, or garages may not be used as bedrooms. No resident may regularly sleep in a basement bedroom or in a bedroom above the second floor of a single-family dwelling unless there are two exits that conform to the specification in [Article IV.G.4.](#)

6. **Bedroom requirements for non-ambulatory residents:**
 - a. **Accessibility:** Bedrooms of non-ambulatory residents must be accessible and permit evacuation in the event of a fire or other emergency.
 - 1) *Floor area for non-ambulatory residents: Bedrooms must not be less than 100 square feet per non-ambulatory resident.
 - b. **Conditions required for use of shared bedrooms:**
 - 1) Residents must not be required to share a bedroom. Residents must be allowed to share a bedroom if a shared bedroom is preferred by both residents and their legal decision-maker.
 - 2) People sharing units must have a choice of roommates.
 - 3) Accommodations must be made for any two residents who wish to share a sleeping room if possible, and if the room meets the square footage requirements outlined in [Article IV.E.2.](#)
7. **Bedroom requirements for AFH serving participants in Medicaid home and community-based waiver programs:**
 - a. *Bedroom doors must be equipped with a lock that is keyed individually from other rooms in the home.
 - b. *Bedroom door must be able to be locked by the resident when in the room and upon departure.
 - c. Only authorized staff can have access to the key.
 - d. The lock must not restrict a resident's ability to exit the room.
 - e. Residents have the freedom to furnish and decorate their bedroom within the lease or other agreement.
8. ***Privacy:** Resident(s) must have privacy in their sleeping or living unit. A resident's bedroom must provide comfort and privacy, must be enclosed by floor-to-ceiling walls, and must have a rigid door that the resident can open and close.
9. ***Beds:** There must be a separate bed for each resident unless both residents choose to share one bed. The bed must be clean, in good condition, and of proper size and height for the comfort of the resident(s).
10. **Linens:** Bedding and linens must be provided to residents, be in good repair, maintained in clean condition, and laundered regularly.
11. **Storage space:** Each resident must be provided with conveniently located individual storage space sufficient for hanging and storing clothes and for storing other personal belongings. If requested by the resident, the storage space must be lockable.
12. **Room décor:** To the extent that space allows, residents are allowed to bring their own bedroom furnishings and accessories, and to personalize and individualize their room.

F. Kitchen and dining room

1. ***Space and equipment:** The kitchen must be equipped with a full range of appliances that are appropriately sized for the number of household members. There must be sufficient space and equipment in the kitchen for the sanitary preparation and storage of food.
2. **Size:** The dining room area should be large enough so that all household members, including respite residents, may dine together if they choose to do so.

G. Fire Safety

Compliance with these standards does not relieve the provider or operator of the obligation to comply with other applicable state or local codes that may have stricter provisions.

1. ***Fire extinguishers:** Every AFH must be equipped with one or more fire extinguishers on each floor. Each required fire extinguisher must have a minimum 2A 10-B-C rating. *All required fire extinguishers must be mounted.*A fire extinguisher is required at the head of each stairway and in or near the kitchen. A single fire extinguisher located in close proximity to both of these areas may be used to meet the requirement. Each required fire extinguisher must be maintained in ready-to-use condition, must be inspected annually by an authorized dealer or the local fire department, and have an attached tag showing the date of the last inspection.
2. **Smoke detector location:** Every AFH must be equipped with one or more single-station, battery-operated, electrically interconnected or radio-signal-emitting smoke detectors on each floor. Required smoke detectors must be in each habitable room except the kitchen and bathroom, and specifically in the following locations: at the head of each open stairway; at the door leading to every enclosed stairway; in the living and/or family room; and in each bedroom and the basement. A smoke detector located in close proximity to one or more of these areas may be used to meet more than one of these requirements.
3. **Smoke detector tests:** The AFH provider or operator must maintain each required smoke detector in working condition, test each smoke detector not less than monthly, and log the results of each test to make sure that it is in operating condition. If a unit is found to be not operating, the provider or operator of the AFH must immediately replace the battery, repair, or replace the unit.
4. **Exits:** Exits must meet applicable building codes for exits, including:
 - a. **Exiting from the first floor:** The first floor must have two accessible exit doors. At least one of the exits must discharge to grade. The additional exit may discharge to an outside balcony, or an attached garage provided the garage has an exit door that discharges to grade.
 - b. **Exiting from the second floor:** At least two exits must be provided from the second floor. One of the exits must be a stairway or ramp that leads to the first floor or discharges to grade. The second exit may be via a stairway or

- ramp, a balcony, or a window that meets building code requirements for windows used for exiting.
- c. **Exits above the second floor:** At least two exits must be provided for each habitable floor above the second floor. The exits must be stairways or ramps that lead to the second floor or discharge to grade.
 - d. **Exiting from basement:** All basements must be provided with at least one exit that is either a door to the exterior or a stairway or ramp that leads to the floor above. If a basement that meets the requirements in [Article IV.E.5.](#) is used for a bedroom, at least two exits must be provided. The second exit can be an additional door to the exterior, or an additional stairway or ramp that leads to the floor above or to the garage if the garage meets the requirements in [Article IV.G.4.a.](#), or an egress window located in the resident's bedroom.
5. **Fire safety evacuation plan:** The provider or operator must have a written plan for the immediate and safe evacuation of all occupants of the AFH in the event of a fire. The plan must identify the necessary elements needed for such a plan, including but not limited to evacuation route and equipment needs. The plan will identify an agreed upon exterior meeting place for all household members to go to in the event of an emergency evacuation. If a resident is incapable of self-evacuation in an emergency, the provider, operator, staff, or substitute provider must be physically present in the AFH whenever that resident is present in the home. The AFH provider or operator must review the fire safety evacuation plan with each new resident immediately following placement. All caregivers, including substitute caregivers, must receive training on the fire safety evacuation plans prior to working in the AFH and must be capable of assisting residents, including non-ambulatory residents, to safety in the event of a fire.
 6. **Fire drills:** The AFH provider or operator must conduct fire drills semi-annually with all household members and whenever there is a change in household member or staff member. Written documentation of the date, time, and evacuation time for each drill must be maintained by the home and submitted to the certifying agency upon request.
 7. **Report of a fire:** The provider or operator must report a fire in the AFH for which the local fire department was called to the certifying agency within 24 hours and describe what happened. A written report of this event must be provided to the certifying agency.

H. Telephone

The AFH must provide at least one phone designated for residents to make and receive calls. The home may require that any long distance or toll calls made by residents be made at a resident's own expense. Emergency telephone numbers must be posted or programmed into the phone designated for resident use.

I. Household Pets

1. **Ownership:** Pets may be allowed on the premises of an AFH. Pet ownership must

comply with local ordinance.

2. **Health and vaccinations:** A pet suspected of being ill or infected must be treated immediately for its condition or removed from the AFH. Cats, dogs, and other pets vulnerable to rabies, which are owned by any resident or household member, must be vaccinated as required under local ordinance. Vaccination records must be provided to the certifying agency. AFH service agreement must include a pet policy.
3. **Cleanliness:** Pens, cages, and litter boxes must be kept clean and odor-free. All areas of the AFH to which pets have access, including exterior grounds, must be kept clean and odor-free. Pet excrement must be disposed of properly both inside and outside of the AFH.
4. **Care:** Pets must be kept and handled in a manner that protects the well-being of residents, other household members, visitors, and pets.
5. **Resident consent:** Prospective residents considering placement in the AFH should be told about any pets in the home. The wishes of residents must be considered before a new pet is allowed on the premises. The AFH must include in their program statement whether pets are allowed to reside in or visit the home.
6. **Temperament:** The provider or operator must ensure that pets are under control and do not present a danger to residents or guests.

V. Provider, Operator, and Staff Qualifications

The standards under this Article must be met at the time of certification, before any placements may occur, and must be reviewed at each recertification.

A. General personnel qualifications

1. **Age, fitness, and ability:** The provider or operator, any staff person, and every substitute provider must be at least 18 years of age and must be capable of providing services, supports, and supervision for residents of AFH. They must also be able to respond to the routine and emergency needs of the residents.
2. **Application information required:** An applicant for certification, a provider, or an operator requesting recertification, must provide all information required by these standards and requested by the certifying agency. The certifying agency may deny or revoke certification if the applicant, provider, or operator fails to provide required information or provides false or inaccurate information during the certification or recertification process. Applications and supportive documentation must be submitted within the timeframe required by the certifying agency.

B. Caregiver background checks

Prior to a certifying agency issuing a certification, and not less than once every three years thereafter, background checks that conform to the requirements in Article III.C.3.a-f. must be completed. Background checks must also be performed on any new employees, new respite or substitute providers, and new household members 18 years or older who have been hired by or moved into the AFH since the date of the AFH's previous certification. Information obtained from the caregiver background checks must be evaluated by the certifying agency pursuant to Wis. Admin. Code ch. DHS 12 and Wis. Stat. § 50.065(6)(a)(b)(c). Background checks must be submitted with the application, where applicable, and maintained there.

C. Financial Security

The provider or operator may be requested to present evidence of having, or having access to, sufficient financial reserves to operate the home and meet the needs of all residents and household members for whom the provider or operator is financially responsible, and to ensure the adequate functioning of the home for a period of at least 30 days without receiving payment for services rendered to or for any resident.

D. Health

1. **Physical examination:** The applicant for an initial certification shall submit a statement from a physician, physician's assistant, or nurse practitioner certifying that the applicant or provider, operator, all staff and all members of the household have had a physical examination, and that these individuals do not have an illness or condition that would threaten the health, safety, or welfare of residents or interfere with any person's capacity to provide services. The statement may not be dated more than one (1) year prior to the date of the application.

2. **Unexpected health issues:** If the applicant, provider, or operator has an unexpected health issue that prevents them from providing services to a resident they must disclose this information to the certifying agency immediately. The certifying agency may require a statement from a physician, physician's assistant, or nurse practitioner indicating that the applicant, provider, or operator are physically capable of providing services.
3. **Communicable disease detection and control:**
 - a. **Documentation of screening:** The provider or operator must obtain documentation from a physician, physician's assistant, clinical nurse practitioner, or licensed registered nurse indicating that the provider or operator and all household members 18 years and older have been screened for tuberculosis (TB). The documentation is to be completed within 90 days prior to the provision of services. The documentation must be kept confidential except that the certifying and placing agencies must have access to the documentation for verification purposes.
 - b. **Management and control:** All household members with symptoms of communicable disease that may present a serious safety or health risk for residents must be kept away from residents until they are no longer contagious.
4. **Other health examinations:** If, at any time, the certifying agency suspects, is informed by the placing agency, or has reason to believe that the applicant, provider, operator, substitute provider, staff, or other household member has been exposed to a potentially dangerous disease or infection, or may pose a threat to the health, safety, or welfare of residents, the certifying agency may require a physical exam, a screen for communicable disease (including tuberculosis), or an alcohol or drug abuse assessment. The placing agency may also require such an exam as a condition of the continued placement of the resident(s).

E. Conflicts of interest

If a conflict of interest as defined in [Article I.C.10](#) of this document is identified, the entity identifying the conflict must report it to the certifying agency.

1. **Approved mitigation plan:** If the certifying agency discovers that the parties involved in the conflict have taken acceptable action to mitigate or eliminate the conflict:
 - a. The certifying agency approves the mitigation and resolution plan and shares it with the placement agency.
 - b. The placement agency performs ongoing monitoring of the mitigation and resolution plan to ensure that involved parties adhere to the plan.
2. **Unresolved plan:** If the certifying agency finds that the parties involved were unable to resolve the conflict:
 - a. The certifying agency communicates the conflict to the placement agency.
 - b. The placement agency works with the involved parties including the provider, operator, resident, and resident's legal decision-maker to mitigate the conflict.
 - c. If the involved parties cannot arrive at an approved mitigation plan, the certifying agency may deny, revoke, or terminate the certification.

3. Documentation

- a. The placing or certifying agency completes a conflict of interest form and shares it with all involved parties.
- b. The conflict of interest form must be agreed to and signed by all parties involved in the conflict.
- c. The certifying or placing agency may request updates on the status of the conflict at any time and may require that the conflict of interest form be updated and signed by all involved parties not less than annually as long as the conflict exists.

F. Transportation services

An applicant, provider, operator, or any other staff person directly providing transportation to residents, must possess and provide a copy of a valid driver's license and proof of insurance to the AFH provider and as requested by the certifying agency. Background checks revealing offenses such as, but not limited to operating while intoxicated, driving while suspended or revoked, driving without insurance, and/or repeat excessive speed or other traffic related offenses, may be considered by the certifying agency, and may result in conditions being placed on the AFH certification, disqualifying these individuals from directly providing transportation to residents.

G. Liability insurance

The applicant for certification, and the provider or operator applying for recertification must present documentation to the certifying agency indicating that they currently have insurance coverage to provide liability protections. Liability insurance will be confirmed on an annual basis.

H. Training

1. **Initial training:** The applicant, provider, operator, substitute provider, and all staff who provide services in the home who meet the definition of caregiver must have completed **not less than 15 hours** of up-to-date training during the first 90 days of certification or within the first 90 days of new hire. **Training from previous employers will not count toward initial training. The 15 hours of training must include, but is not limited to, all the following topics:**
 - a. Resident health, safety, and welfare
 - 1) Recognizing signs of abuse, neglect, and financial exploitation
 - 2) Trauma informed care
 - 3) Crisis intervention
 - 4) Informed choice and autonomy
 - 5) Person-centered/strength-based planning and support
 - b. Conflict of interest
 - c. Resident rights
 - d. Community inclusion and integration
 - e. Service provision to residents including services specifically provided to the target group served by the AFH
 - f. Fire safety
 - g. First aid

- h. Privacy and confidentiality
- i. Dignity of risk as defined in [Article I.C.15](#)
- j. Roles, responsibilities and limitations of legal guardians, Power of Attorney agents, and Supported Decision-Makers
- k. Medication management and administration
- l. The use, avoidance, and approval process involved when restrictive measures may be needed under emergency or nonemergency conditions.

The certifying agency may require staff to complete additional hours of training as dictated by the needs of residents in the AFH.

The certifying agency may require an applicant, provider, operator, substitute provider, and all staff who provide services to residents to complete some or all training prior to certification.

Applicable DHS Certified Direct Care Professional (CDCP) classes can be used to meet the initial training requirements. <https://www.wiscaregivercdcp.com/>

2. **Ongoing training:** Annually, the provider, operator, substitute provider, and all staff who provide services in the AFH and who meet the definition of caregiver must complete **15** hours of training. **The 15 hours of training must include, but is not limited to all** the following topics:
- i. Resident health, safety, and welfare.
 - 1) Recognizing signs of abuse, neglect, and financial exploitation
 - 2) Trauma informed care
 - 3) Crisis intervention
 - 4) Informed choice and autonomy
 - 5) Person-centered/strength-based planning and support
 - b. Conflict of interest
 - c. Resident rights
 - d. Community inclusion and integration
 - e. Service provision to residents, including services specifically provided to the target group served by the AFH
 - f. Fire safety
 - g. First aid
 - h. Privacy and confidentiality
 - i. Dignity of Risk as defined in [Article I.C.15](#)
 - j. Roles, responsibilities and limitations of legal guardians, Power of Attorney agents, and Supported Decision-Makers
 - k. Medication management and administration
 - l. The use, avoidance, and approval process involved when restrictive measures may be needed under emergency or nonemergency conditions.

Applicable DHS Certified Direct Care Professional (CDCP) classes can be used to meet the on-going training requirements. <https://www.wiscaregivercdcp.com/>

3. **Training in excess of required training:** The certifying agency or placing

agency may require the applicant, provider, operator, and any caregiver who provides services to residents to obtain additional training in amounts that exceed the minimum requirements in these standards. This may be done at the time of initial certification, as part of the ongoing training expectation, or in response to the unique needs of a current or prospective resident and must be deemed necessary to ensure the resident's health, safety, and welfare, and to ensure that services effectively meet the resident's assessed needs.

VI. Provider or Operator Responsibilities

A. Supervisory Responsibility

1. Corporate AFHs

- a. The corporate AFH must employ a person who serves as the operator of the corporate AFH. The operator may reside in the home as a condition of employment or may come to the corporate AFH to work.
- b. The operator is responsible for the day-to-day operations of the corporate AFH.
- c. When the operator leaves the AFH they must designate a qualified substitute provider to be in charge and provide support and services to the resident(s).
- d. When the operator designates a substitute operator, they must ensure that the substitute operator has completed the requisite training requirements and passed the background check requirements prior to assuming duties in the AFH. The placement agency or certifying agency may require the operator to submit training records and background checks for the substitute operator prior to approving the substitute operator to work in the AFH.

2. Owner operated AFHs

- a. The provider or operator is responsible for the day-to-day operations of the AFH and for designating a qualified substitute provider if the provider or operator is absent for any amount of time during which residents are present in the home.
- b. The provider or operator must ensure that the substitute provider or operator has completed the requisite training requirements and passed the background check requirements prior to assuming duties in the AFH. The placement agency or certifying agency may require the AFH to submit training records and background checks for the substitute provider prior to approving the substitute provider to work in the AFH.

B. Provision of services

The provider or operator must ensure that all services identified in each resident's AFH person-centered service and support plan, are provided in the amount and manner described in the plan. The provider or operator must allow other agencies to provide services and supports to residents inside of the AFH according to the needs and goals specified in their AFH and long-term care person-centered service and support plans. The provider or operator must report to the placing agency any failure of a provider to deliver a planned service or support that has been outlined in the resident's AFH or long-term care person-centered service and support plans.

C. Coverage for unplanned absence

1. **Corporate AFHs:** The provider must have a written, functional back-up plan approved by the certifying agency that ensures a qualified substitute operator will be available when the operator or any required staff are unexpectedly absent from or unavailable to provide required services and supports in the corporate AFH.

This does not apply if other qualified staff members are present to provide supervision.

2. **Owner operated AFHs:** The provider or operator of an AFH must have a written, functional back-up plan approved by the certifying agency if the provider or operator is absent from the AFH or is unable to serve as the primary service provider for resident(s). Such a plan may include another household member, as long as that member is qualified to provide all services and support needed and required by the resident(s). Qualifications include required background checks and training to provide necessary services and support for the resident. This does not apply if other qualified staff members are present to provide supervision.

D. Immediate reportable incidents and their reporting requirements

1. If the provider or operator knows or has reasonable cause to suspect any incidents occurred, they must take immediate measures to ensure the health, safety, and welfare of the resident(s).
2. The provider or operator must report to the legal decision-maker and the placement agency the incidences stated below within 24 hours of the incident:
 - a. Abuse, including physical abuse, sexual abuse, emotional abuse, treatment without consent, and unreasonable confinement or restraint.
 - b. Neglect and self-neglect.
 - c. Financial exploitation through fraud, enticement or coercion, theft, misconduct by a fiscal agent, identity theft, forgery, or unauthorized use of financial transaction cards.
 - d. Exploitation, taking advantage of a member for personal gain through the use of manipulation, intimidation, threats, or coercion. This could include, for example, human trafficking, forced labor, forced criminality, slavery, coercion, and sexual exploitation.
 - e. Medication error. Any time a member does not receive their medication as prescribed that resulted in a moderate or severe injury or illness. This includes wrong medication, wrong dosage, wrong timing, omission, wrong route, and wrong technique.
 - 1) A moderate injury or illness is one that requires medical evaluation and treatment beyond basic first aid in any type of medical setting (e.g., office visit, clinic, urgent care, emergency room, or hospital observation without admission).
 - 2) A severe injury or illness is one that has or could have the potential to have a major impact on one's life and well-being or that requires hospital admission for treatment and medical care, including life-threatening and fatal injuries.
 - f. Missing person. When a member's whereabouts are or were unknown.
 - g. Fall. An action where a member inadvertently descended to a lower level by losing control, losing balance, or collapsing that resulted in moderate to severe injury or illness directly related to the fall. A fall can be from a standing, sitting, or lying down position.

- h. Emergency use of restraints or restrictive measures. When an unanticipated situation has occurred where an individual suddenly engages in dangerous behavior, placing themselves or others at imminent, significant risk of physical injury. An emergency restrictive measure also applies to situations that are unanticipated and are not anticipated to occur again. This may include the appearance of a behavior that has not happened for years or has not been and unexpectedly escalate to an intensity the team has not seen before.
 - i. Unapproved use of restraints or restrictive measures. When there is a need for a restrictive measure and the placing agency is gathering information for DHS approval or when approval for a restrictive measure has expired and is still being utilized.
 - j. Death due to any of the member incidents of this list, as well as death due to accident, suicide, psychotropic medication(s), or unexplained, unusual, or suspicious circumstances.
 - k. Any type of accident, injury, illness, death, or unplanned law enforcement involvement that is unexplained, unusual, or around which suspicious circumstances exist and resulted in a moderate or severe illness/injury.
 - l. Upon learning of a fire in the home.
 - m. Upon being made aware of a news or social media story involving an AFH resident, AFH owner, operator, staff or other household member, the content of which has had or has the potential to have a negative effect on the safety, health, or well-being of the resident.
3. **Immediate reportable incident reports:** The provider or operator must notify the legal decision-maker and the placement agency using the form or process prescribed by the agency which must include:
- a. A description of the incident.
 - b. Factors leading up to the incident.
 - c. Actions and steps immediately taken by the provider, operator, or placement agency to prevent further harm to or by the affected member(s).
 - d. AFH staff must report resident incidents to placing agency stated in [Article VI.D.2.](#) within 24 hours after discovering or learning of a resident incident.
4. **Reporting incidents to other entities:** In addition to the placement and certifying agency, the AFH may need to report to APS and/or law enforcement agencies as appropriate. The placement agency, certifying agency, or DHS may require additional information from the provider or operator who reported the alleged abuse or incident. The provider or operator must respond to the entity requesting the information within the time frame specified by the entity using the form or process prescribed by the entity. Failure to do so may result in action including revocation or non-renewal of the AFH certification.
- Entities include:
- a. County adult protective services (APS) agencies for elder abuse or adults at risk.
 - b. Law enforcement agencies, as appropriate. If the provider or operator has reason to believe that a crime has been committed, the incident must

immediately be reported to law enforcement authorities, as required reporters of adults at risk and elder adults at risk under [Wis. Stat. § 55.043](#).

5. Additional reporting requirements:

- a. If the certifying agency has additional incident reporting requirements, then said agency must follow that process as outlined per their contract requirements.
- b. Emergency or non-emergency use of restrictive measures, including restraints, may be permitted only if approved by DHS according to the [Restrictive Measures Guidelines and Standards, P-02572](#). Use of restrictive measures under emergency conditions must be reported to the placing agency by the next business day with a description of the incident leading up to the use of restrictive measures, the actions taken by the AFH's provider, operator, or staff to mitigate the incident before the decision was made to utilize restrictive measures, an explanation of the restrictive measures applied, and the outcome of the incident.

E. Notification of Status Change

The provider or operator must request approval from the certifying agency prior to implementation of the changes below. Failure to obtain prior approval for the change within the designated time frame may result in revocation or non-renewal of certification:

1. A substantive change in the number, type, or availability of services the provider or operator has outlined in their program statement including but not limited to any significant change in the capability of the home caused by a person with specific skills leaving their employment or reducing their availability to provide services in the home. These changes must be reported at least 30 days prior to the effective date of the change or as soon as possible if the provider or operator had less or no notice of the change. The report must state if the AFH will hire a substitute provider to continue offering services to the resident(s) as identified in their AFH person-centered service and support plan.
2. A substantial change in the health status of the operator or provider must be reported within one business day if that change affects their ability to provide the services and supports needed by resident(s) in accordance with their AFH person-centered service and support plan.
3. An anticipated or unanticipated significant change in the physical environment of the residence, must be reported within 24 hours of its occurrence or not less than 30-days prior to the change taking place, whichever occurs first. Examples of significant changes may include but are not limited to: structural damage to the home; changes in floor plans or purposes for which rooms are being used; remodeling projects that will reduce resident access to certain areas of the home or will permanently or temporarily alter the accessibility of the interior and/or exterior of the home as described in [Article IV.B](#).
4. Any change in provider's or operator's employment or financial status must be reported when such change would result in the provider or operation's inability to operate the AFH for at least 30 days without payment for services or would result

- in the inability of the AFH to provide services in accordance with the resident's AFH person-centered service and support plan.
5. Additional household members including live in staff.
 6. A change in the provider's, operator's, and all household members' legal status, including being arrested, charged, or convicted of any crime.
 7. Any change in the health status of a household member if the change presents a health or safety risk to the resident(s) must be reported within one business day.
 8. Any change to the AFH program statement that impacts items required by [Article III.C.4.](#) and/or other changes in the AFH program statement that may have an impact on the health, safety, or well-being of resident(s).

F. Provide Access to the Home

The provider or operator must provide the certifying agency, placing agency, and DHS with immediate access to the home upon request for any purpose related to certification or recertification, for monitoring of the home, and/or the health, safety, or welfare of resident(s), or a resident and/or their legal decision-maker at the request of those individuals. This may include unannounced visits at any time, seven days per week, 24 hours per day. Failure of a provider or operator to grant access under this Article may result in immediate action to revoke the certification, discontinue placements to the home, and/or relocate current residents.

G. AFH Leased from Third Party

If the provider or operator is leasing or renting the AFH location (i.e., apartment, rental home) they must inform the lessor/landlord of the intent to use the leased or rented space as an AFH. The provider or operator must provide proof of the lessor/landlord's permission to use the space as an AFH, a copy of the lease agreement (including the name(s) of all permanent residents), and a copy of any additional requirements or restrictions put in place by the lessor/landlord to the certifying agency.

VII. Requirements for Resident Supports and Services

A. Introduction

Per [42 C.F.R. § 441.301\(c\)\(4\)\(i\)](#) the setting is integrated in and supports full access of people 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 people not receiving Medicaid HCBS.

The provider or operator must provide a safe, emotionally stable, homelike, and humane environment that encourages informed choice, maximum resident self-direction, independence, and autonomy. The provider or operator must also ensure residents have privacy, are treated with dignity and respect, and are free from coercion and restraint. The provider or operator must support residents to lead their own life the way they want and support them to make life choices. This includes what residents do each day, where they do it, and with whom they choose to socialize.

B. Admission of minors

The AFH may not admit a person under 18 years of age without written approval of the certifying agency and only if any of the following apply:

- a. The AFH is also licensed under [Wis. Admin. Code ch. DCF 57](#) as a group foster care home, [Wis. Admin. Code ch. DCF 56](#) as a foster home care for children, or under [Wis. Admin. Code ch. DCF 52](#) as a residential care center for children and youth.
- b. The minor has been waived to an adult court under [Wis. Stat. § 938.18](#).
- c. The minor is the child of an adult resident. When the minor child of an adult resident resides in an AFH, all the following shall apply:
 1. The adult resident retains custody and control of the child.
 2. The AFH shall have written policies related to the presence of minors in the AFH, including policies on parental responsibility, school attendance, and any care, treatment, or services provided to the minors by the AFH.

C. Placement

Per the intent of [42 C.F.R. § 441.301\(c\)\(4\)](#), the prospective resident has the right to select the setting in which they live from among options including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the long-term care person-centered service and support plan are based on the individual's needs, preferences and, for residential settings, resources available for room and board.

1. **Placement assessment:** Prior to the placement of the prospective resident, an individualized person-centered assessment must be conducted to determine whether the AFH is suitable to meet the prospective resident's needs and preferences. This assessment is performed in accordance with the statutory, administrative rule, and/or contractual requirements. At minimum, the

individualized person-centered assessment must identify the needs, abilities, and preferences of the prospective resident. Placement decisions should consider the AFH's ability to adequately support the individual's needs in the following areas:

- a. Opportunities for the prospective resident to be in contact and interact with people from the broader community including friends, family, and associates.
- b. Need for assistance with activities of daily living and instrumental activities of daily living (including administering medications and medication management) and how to provide that assistance based on resident's needs and preferences.
- c. How the home will coordinate with the resident's health care providers to assure that all physical, mental, and emotional health needs are met.
- d. Amount, frequency, and intensity of supervision required by the person to ensure health and safety in the home and community.
- e. Behavior support needs including the need for or use of restrictive measures or restraints, if any.
- f. Participation in work, vocational program, and/or other structured daytime activities.
- g. Recreational, social opportunities, and activities inside and outside of the home. Providing, arranging, or supporting transportation services needed to implement the individual's long-term care person-centered service and support plan, including transportation services that support other services and providers.

2. Provision of information to prospective residents prior to placement

- a. Written informed consent to permit the sharing of information between placing agency and the AFH.
- b. Prior to placement, the following information about the home must be shared, in writing, to prospective residents and their legal decision-maker(s):
 - 1) A list of all household members, identifying any that are related to the provider or operator, any related person receiving services, and a description of the roles, responsibilities, and expectations of the household members and staff.
 - 2) If provider, operator, household members over the age of 18, or staff have a conviction record or pending criminal charge that substantially relates to being a caregiver, management of funds or property, or to activities of the AFH.
 - 3) A description of any personal housekeeping the resident is expected to or may be requested to perform.
 - 4) The names and contact information of all parties involved in placement and oversight of the AFH, including the contact person from both the certifying agency and placement agency, where applicable.
 - 5) The AFH's program statement.
 - 6) A written summary of the amount, possible sources, and acceptable methods of payment for providing care and maintenance to a resident of the AFH, specifying any costs for which the resident will be liable.

- 7) Any current standards as outlined in the Wisconsin Medicaid Standards for Certified 1-2 Bed Adult Family Homes that are not being met and have a corrective action plan (CAP) under consideration by the certifying agency.
 - 8) Documentation of current AFH certification.
 - 9) A copy of the AFH grievance procedure
 - 10) List of resident rights
- c. Information identified above must be provided in writing and the content must also be explained verbally to the prospective resident and/or legal decision-maker. The legal decision-maker or prospective resident must sign a statement stating they received this information. The provider or operator maintains a copy of this statement. The certifying agency maintains the right to review this upon request.
3. **Preplacement visit and interview with prospective provider or operator:** A preplacement visit may be arranged to the AFH for the prospective resident and the resident's legal decision-maker. This visit may include:
- a. An opportunity for the prospective resident to meet the current resident, if any, and other household members and staff who work in the home.
 - b. An opportunity to spend time in the house and observe the household and its routines.
 - c. The visit may include any or all the following:
 - 1) An overnight stay.
 - 2) A meal.
 - 3) Participation in a planned activity.
 - d. A discussion of beliefs and practices (e.g., religious, and political affiliations, cultural beliefs and practices, diversity, equity, inclusion, etc.) of the provider, operator, prospective resident, and other household members.

D. Placement into the AFH

When the prospective resident and/or the resident's legal decision-maker select an AFH, the provider or operator must do the following:

1. **Develop the initial resident's individualized AFH person-centered service and support plan.**
 - a. **Plan required:** Each resident of an AFH must have an individualized AFH person-centered service and support plan. The plan must be developed prior to or at the time of the resident's placement in the home, except in urgent situations when the resident requires placement immediately. In this case, the resident's AFH person-centered service and support plan must be developed within seven days of placement.
 - b. **Basis of an individualized AFH person-centered service and support plan:** The plan must be based on and address the needs and desired outcomes of the prospective resident gathered during an individualized person-centered, preplacement assessment. The plan must include:

- 1) Description of all person-specific conditions that require interventions and supports.
 - 2) Support needed for fire evacuation as stated in [Article IV.G.5.](#)
 - 3) A list of individualized person-specific assessed needs arising from conditions identified.
 - 4) A list of person-specific assessed interests, desires, and measurable goals.
 - 5) A description of the agreed upon services and supports the AFH will provide to meet the needs, desires, interests, and measurable goals identified in the resident's individualized person-centered, preplacement assessment.
 - 6) A description of how the resident will obtain access to places in the community, including but not limited to, employment and/or volunteer opportunities, medical and other appointments, social and leisure events, and other activities desired by the resident.
 - 7) A description of any personal housekeeping or other unpaid work the resident agrees to perform or, if applicable, any compensated work the resident has agreed to do for the provider or operator, including the terms of compensation.
 - 8) A description of approved exception requests as described in [Article XI.](#)
 - 9) A description of HCBS Settings Rule Modification as described in [Article VIII.B.](#)
- c. **Involved parties:** At a minimum, the provider or operator must ensure that the resident's AFH person-centered service and support plan is developed jointly with the full participation of the following parties, and ensures that all parties have signed, dated, and received a copy of the plan:
- 1) The resident and/or the resident's legal decision-maker.
 - 2) Anyone else desired by the resident and/or their legal decision-maker.
 - 3) The placement agency, as appropriate.
 - 4) Other AFH staff, as appropriate.
2. **Ensure regular review of and modifications to AFH person-centered service and support plan**
- a. **Regular review of and modifications to the resident's AFH person-centered service and support plan:** Each plan must be reviewed at least once every six months, whenever the resident's needs or preferences substantially change, and upon request of the resident and/or their legal decision-maker, to ensure the plan reflects the resident's current needs, desires, interests, and goals. Each review should include all persons identified in [Article VII.D.1.c. 1\)-4\).](#) and each of these persons must sign, date, and receive a copy of the updated plan.
 - b. **Evaluating modifications:** Modifications may be temporary or permanent based on the condition, needs, desires, interests, and goals of the resident at the time the modifications are made.

- c. The provider or operator, in cooperation with the resident, the legal decision-maker, and all other applicable parties, must determine a time frame, not to exceed every six months, for reviewing the modification(s) to determine if it is/are still effective and/or required.
 - d. Modifications that are no longer pertinent should be removed from the resident's AFH person-centered service and support plan.
3. **Develop the service agreement**
- a. **Introduction:** An AFH must have a service agreement with each resident of the home. The service agreement should be completed prior to the resident's placement unless there is an urgent need for immediate placement. In urgent situations when the resident requires immediate placement, the service agreement must be completed within seven days after placement.
 - b. **Involved parties:** **At a minimum, the parties to the agreement must include the resident and/or the resident's legal decision-maker, the provider or operator, and the placement agency, if applicable.** The agreement must be signed by, and a copy given to each of these parties. The agreement must be reviewed and updated at least annually or whenever a change in any provision occurs. The agreement must conform to any conflict of interest policies in these standards or in other rules imposed by placing agencies.
 - c. **Contents:** An AFH service agreement must include:
 - 1) Reference to the AFH resident's person-centered service and support plan developed pursuant to [Article VII.D](#).
 - 2) Details regarding the agreed upon rate of payment for services and room and board provided to the resident, including:
 - a) Method(s) used for billing.
 - b) The source(s) of funding used.
 - c) The method, frequency, and anticipated dates payment must be rendered.
 - d) Any costs for which the resident will be liable including the rate or cost per unit of any procedure or service not covered by the placement agency.
 - 3) Reasons and notice requirements for involuntary discharge.
 - 4) A description of the space to be provided to the resident for sleeping, storage, and any other uses, along with a description of the typical number and times meals and snacks will be provided.
 - 5) A statement of the resident's rights and the grievance process under [Wis. Admin. Code ch. DHS 94, Article IX](#) of these standards, and the grievance process available through the funding or placement agency.
 - 6) **Management of resident's personal funds:** If the resident wants funds held by the AFH, the home must make those funds immediately available to the resident upon request. Control of funds is decided by the resident or the resident's legal financial decision-maker in accordance with the authority granted to them by the court or other legally binding document.
 - a) No provider, operator, or staff person may handle more than

\$200 of resident discretionary funds at any one time. If resident discretionary funds exceed \$200, the provider or operator must notify the fiscal agent, representative payee, or legal decision-maker to make arrangements for the disposition of excess funds.

- b) Resident discretionary funds must not be comingled with any other person's funds, including those of the provider or operator even in cases where the provider or operator may also be the resident's legal financial decision-maker.
 - c) If, by agreement, the provider or operator is given control of any resident's funds, a methodology (for example, a financial ledger and receipts) for monitoring and separately accounting for the management of these funds for each resident must be established.
- 7) A list of house rules and policies including but not limited to:
- a) Pet policy including elements in [Article IV.I.1-6](#).
 - b) Smoking policy.
 - c) Weapons policy including elements in [Article IV.C.13](#).
 - d) Any unpaid household or other duties expected to be performed by residents in the home, including those that may or may not involve care and maintenance of the resident's personal space.
4. **Assure that the prospective resident has received the required health screening within the timeframes designated below.**
- a. Any new resident of an AFH must have received a health examination including a screening for communicable diseases such as TB no more than 90 days prior to admission to the AFH. If the resident must be admitted on an emergency basis, prior to the completion of these requirements, the examination and screening must be completed, and results submitted to the provider or operator within seven days after admission.
 - b. No examination is required for a person admitted for respite care unless the respite resident is expected to stay in the home for more than seven days and will be placed in the home no more than once in a calendar year.
5. Identify and facilitate provision of resident-specific training for the provider, operator, or staff of the home.
6. Give the resident and the resident's legal decision-maker a copy of the Medicaid Standards for Certified 1-2 Bed Adult Family Homes, if requested, or the information on where they can be located.
7. The AFH shall provide written information regarding the names, addresses, and telephone numbers of all resident advocacy groups serving the client groups in the facility, including the long-term care ombudsman program within the Board on Aging and Long-Term Care and the protection and advocacy services of Disability Rights Wisconsin, Inc.

E. Involuntary Discharge from AFH

1. Notice and discharge requirements.

- a. Before a AFH involuntarily discharges a resident, the AFH shall give the resident or legal representative and placing agency a 30-day written advance notice. The written notice must include the reason and justification for discharge.
- b. No 30-day notice is required in an emergency. "Emergency" means an immediate and documented threat to the health or safety of the resident or of others in the AFH.
- c. The AFH shall continue to provide services until living arrangement suitable to meet the needs of the resident is available.

2. Reasons for involuntary discharge. The AFH may not involuntarily discharge a resident except for any of the following reasons:

- a. Nonpayment of charges, following reasonable opportunity to pay.
- b. Care is required what is inconsistent with the AFH's program statement and beyond that which the AFH is required to provide under the terms of the service agreement.
- c. Care is required that the AFH cannot provide.
- d. There is imminent risk of serious harm to the health or safety of the resident, or other residents or employees, as documented in the resident's record.
- e. As otherwise permitted by law.

3. When applicable, involuntary discharge must follow the agreement with the funding source.

F. Supporting resident needs and preferences

The provider or operator must implement the resident's AFH person-centered service and support plan and assist them to plan and execute activities that address their needs and preferences. The provider or operator must also provide residents with opportunities for community integration and participation consistent with the resident's long-term care person-centered service and support plan. These may include participation in cultural, religious, political, social, and other activities of the resident's choice within the AFH **and** in the community. The provider or operator must allow a resident to participate in any activities that the resident selects unless restriction to the activity is based on an individualized, assessed need and is documented in the resident's long-term care and AFH person-centered service and support plan. If the member is a Medicaid recipient, the restriction must also be documented as an HCBS Settings Rule Modification as described in [Article VIII.B.](#)

G. Services

The services provided by the provider, operator, and staff in the AFH must be those specified and described in each resident's AFH person-centered service and support plan. The services the provider or operator is capable of providing must be specified in the AFH's program statement and may include, but are not limited to:

1. Supervising or accompanying residents within the AFH or in the community, when required.
2. Assisting a resident with or teaching a resident how to perform activities of daily living and/or instrumental activities of daily living.
3. Providing or arranging for transportation for a resident to and from employment, leisure and recreational activities, medical and dental appointments, and other activities identified in the resident's AFH person-centered service and support plan.
4. Maintaining a log of all medical visits, written reports, and recommendations received at such visits about the resident.
5. Managing resident health status including documenting health changes; contacting health care providers when indicated; taking residents to health care providers in emergency situations, or when requested by medical staff, resident, or legal decision-maker.
6. Assisting with administration or management of prescription medications.
7. Providing nutritious meals as specified in the resident's AFH person-centered service and support plan.
8. Coordinating services that are brought to the AFH by other providers, including skilled nursing services. A provider or operator may arrange for or, if qualified, personally provide skilled nursing services to residents if it is specified in the resident's AFH person-centered service and support plan. A physician's written authorization must be obtained if skilled nursing services are required.
9. Implementing behavioral support plan, and if applicable, DHS approved restrictive measure plan.
10. Providing respite services.

H. Refusal of services

The resident may refuse any service at any time.

I. Medication management

If the AFH provides assistance with prescription medications, the provider, operator, or any staff involved in the provision of this assistance must observe the requirements of this Article.

1. ***Storage:** Every prescription medication must remain in the original container received from the pharmacy with a label permanently attached to the outside, which lists the name of the person for whom the medication is prescribed, the physician's name, the prescription number, the name and dosage of the medication, directions for use, the date the medication was issued, an expiration date of medication, and the name, address, and phone number of the pharmacy from which the medication was obtained unless prepared in secure packaging from a pharmacy. All prescription medication must be securely stored as specified by the pharmacist on the label or with the instructions that came with the medication. Owner, operator, and any household member's medication must be stored separately from resident's medication.
2. **Medication control and administration**

- a. A resident must be permitted to refuse medication unless there has been a court order under [Wis. Stat. § 51.20](#) or [Wis. Stat. ch. 55](#).
 - b. A resident must control and administer their own medications in accordance with [Article VII.I.1-3](#), except when the resident is not able to do so, as determined by the resident's physician, a court of law, or when the resident or resident's legal decision-maker requests the provider's or operator's assistance. The AFH must include medication administration on the resident's AFH person-centered service and support plan.
 - c. For the provider, operator, or staff to administer or assist a resident in administering any prescription medication, there must be a written order from the prescribing physician. The written order must specify dosages, frequency, and route by which the medication should be taken and under what conditions it may be administered.
 - d. If the provider, operator, or staff assists with medications, they must safely store the medication, help the resident take the correct dosage at the correct time, obtain refills as necessary, and communicate effectively with the resident's physician and pharmacist.
 - e. All staff administering medication must be trained about resident's specific medications, side-effects, medication storage, how to complete the medication administration record (MAR), and methods of administration. The staff must be trained prior to administration of medication for any resident in the AFH.
3. **Medication administration record (MAR):** Records must be kept by the provider, operator, or staff of all prescription medication controlled or administered by the provider, operator, or staff and must document the following:
- a. The name of the resident.
 - b. The name of the medication.
 - c. The date and time the medication was given.
 - d. The dose taken.
 - e. The initials of the provider, operator, or staff that indicate that the medication was given.
 - f. Any refusal by the resident to take any medication.

J. Meals and nutrition

People have the freedom and support to control their own schedules and activities and have access to food at any time.

1. **Quantity and variety:** The provider or operator must provide each resident with a quantity and variety of foods sufficient to meet the resident's nutritional needs and preferences, to maintain their health.
2. **Frequency:** The provider or operator must provide or assure that each resident receives three nutritious meals each day. Residents must have access to food at any time unless otherwise specified in their individualized long-term care and AFH person-centered service and support plans, a behavior support plan, an approved DHS restrictive measures plan, or by order of the resident's primary

care physician. For individuals participating in the Medicaid HBCS waiver programs restrictions to an individual's access to food or liquids at any time must be documented in the resident's long-term care person-centered service and support plan as an HCBS Settings Rule Modification. The provider or operator must accommodate the dietary needs of those residents with a physical and/or medical condition(s) requiring more or less frequent meals and snacks. Some meals the resident receives may be provided through other programs (e.g., adult day care) in which the resident is participating.

3. **Sanitary preparation and storage of food:** Food must be prepared and stored in a sanitary manner.
4. **Dining area:** Residents must be given the opportunity to be served their meals in a dining area with other household members who choose this option.
5. **Special dietary needs:** Meals prepared by the provider, operator, or other household members must consider resident's medical, physical, cultural, and religious dietary needs. The provider or operator must follow special diets requested by the resident or ordered by their physician (i.e., mechanical soft diet, thickened liquids, vegetarian, vegan, gluten free, etc.) as specified in the resident's AFH person-centered service and support plan.
6. **Space:** Residents must be given designated space to store personal food in the refrigerator and cupboards.

K. Use of an AFH for respite care

AFHs certified under these standards may provide respite care when approved by the certifying agency. If approved, the use of the AFH for respite care must be reflected in the AFH's program statement.

1. **Number of respite residents and people receiving services from the home:** There may be no more than two respite residents and no more than two permanent residents in the AFH at any one time.
2. **Notification of residents:** If the AFH requests to provide respite care, it must have, revise, or create a program statement to describe the respite care program. Prior to placement in the AFH, a prospective resident must be informed that respite care to other individuals is a provided service. If the provider or operator decides to provide respite care after current residents were placed, it must create or amend the AFH's program statement to accurately reflect this service and give current residents a 90-day notice before respite care may be provided in the AFH.
3. **Adequate space and facilities required:** If the provider or operator is approved to use the AFH for one or two additional respite residents, there must be sufficient physical space in sleeping, living, bathroom, eating, and storage areas to accommodate the additional respite resident(s). No permanent resident may be

required to share a room or to move to a different room to accommodate a respite resident. There must be sufficient furniture and other equipment in the home to accommodate all residents, including the respite resident(s).

4. **Respite care AFH person-centered service and support plan:** Each respite resident must have an AFH person-centered service and support plan. The plan must be based on an individualized AFH person-centered assessment completed not more than 90 days prior to admission and must adequately address the person's need for respite support, supervision, and services. The AFH person-centered service and support plan is specifically developed by the respite provider and the respite resident and must adopt all relevant provisions of the long-term care person-centered service and support plan.
5. **Adequate staff support:** If the AFH is permitted to provide respite care, there must be an adequate number of staff at all times to assure the health, safety, and welfare of each resident of the home, including respite residents, and to effectively implement each resident's AFH person-centered service and support plan.
6. **Privacy:** There must be no significant reduction in the privacy any permanent resident experiences with respect to their sleeping area or other private spaces within the AFH. Respite residents must be afforded a level of privacy consistent with other residents.
7. ***Duration of a resident stay:** Respite care stays may not exceed 28 consecutive days. Respite care is a temporary situation and must not be used as a permanent placement.
8. ***Maximum number of days the home may be used for respite care per resident:** The maximum number of days per year a respite resident can stay in the AFH is not greater than 90 days per calendar year.
9. **Approval for the request to provide respite:** The criteria the certifying agency must use to determine if the request to provide respite care may be approved includes but is not limited to:
 - a. The size of the AFH and the common areas are large enough so that residents, household members, and the prospective respite resident(s) will not be crowded or have additional difficulty using any of the spaces.
 - b. The provider, operator, AFH staff, and substitute providers must have the ability to respond to the needs of all residents with the additional respite residents under their care.
 - c. The intent for the respite resident(s) is to use this AFH on a recurring basis so the current residents can develop a relationship with the respite resident(s).

Any exception that is granted by the certifying agency must be reported to DHS using the process and reporting requirements stated in [Article XI](#).

- 10. Respite only AFHs:** Certified 1-2 Bed AFHs that only provide respite services are considered respite only AFHs.
- a. Respite only AFHs may only have 1 or 2 respite residents at any time.
 - b. No permanent residents are allowed to live in a respite only AFH.
 - c. The certifying agency may choose to certify respite only AFHs.
 - d. Respite only AFHs do not need to receive a HCBS Settings Rule review to provide respite for Medicaid residents.
 - e. The respite duration of stay and maximum number of days still apply to a respite only AFH.

VIII. Requirements for Home and Community-Based Settings

A. Introduction

In addition to 1-2 bed AFH standards, all home and community-based settings used by people participating in Medicaid Home and Community-Based Services waiver programs under Section 1915(c) must comply with [42 C.F.R. § 441.301\(c\)\(4\)](#) by meeting the criteria below and the corresponding [Wisconsin HCBS Settings Rule Benchmarks: 1-2 Bed Adult Family Homes, P-02060](#).

Prior to certifying any setting, the certifying agency must ensure through an on-site visit and review of AFH documentation, that each setting meets these criteria. Respite only AFHs meeting requirements in [Article VII.K.10](#), are exempt from the requirements in this article.

B. HCBS Settings Rule Modifications

The AFH and placing agency may assess that an individual resident requires a HCBS Settings Rule Modification if all the requirements in this section are met.

1. HCBS Settings Rule Modifications may be considered for the following AFH standards that correlate with an HCBS Settings Rule requirement:
 - a. [Article IV.B.](#) (specifically resident's access to bedroom, bathrooms, common living and dining areas, and kitchen)
 - b. [Article IV.C.1.](#) Privacy
 - c. [Article IV.C.2.](#) Electronic monitoring
 - d. [Article IV.C.10.](#) Access to laundry facilities
 - e. [Article IV.C.15.](#) Access
 - f. [Article IV.E.6.b.2\).](#) Choice of roommates
 - g. [Article IV.E.7.a.](#) Bedroom door equipped with a lock
 - h. [Article IV.E.7.b.](#) Resident able to lock bedroom door
 - f. [Article IV.E.7.c.](#) Only authorized staff can have access to the bedroom door key
 - i. [Article IV.E.7.e.](#) Residents have the freedom to furnish and decorate their bedroom within the lease or other agreement
 - j. [Article IV.E.8.](#) Resident(s) must have privacy in their sleeping or living unit
 - k. [Article VII.J.](#) Meals and nutrition
 - l. [Article IX.D.3.](#) Privacy
 - m. [Article IX.D.15.](#) To have free association and assembly which includes having private visitors at any time, having adequate time and private space for visits, with people of the resident's choosing, and to choose social and community activities in which to participate.
 - n. [Article IX.D.19.](#) Least restrictive environment
 - o. [Article IX.D.29.](#) To establish a personal schedule reflecting preferred times to engage in leisure and restful activities both in the home and in the broader community.
 - p. [Article IX.D.30.](#) To access food that meets their needs at any time as outlined in [Article VII.J.1-6.](#)

2. HCBS Settings Rule Modifications for the following articles first require an approved Exception Request as outlined in Article XI before they may be implemented by the AFH:
 - a. [Article IV.C.1.](#) Privacy
 - b. [Article IV.C.2.](#) Electronic monitoring
 - c. [Article IV.E.7.a.](#) Bedroom door equipped with a lock
 - d. [Article IV.E.7.b.](#) Resident able to lock bedroom door
 - e. [Article IV.E.8.](#) Resident(s) must have privacy in their sleeping or living unit
3. The placing agency and resident must be involved in the determination of if a HCBS Settings Rule Modification is required.
4. The HCBS Settings Rule Modification must be supported by a resident's specific assessed need.
5. Document HCBS Settings Rule Modification in both the long-term care and AFH person-centered service and support plan. The documentation must:
 - a. Identify a specific and individualized assessed need.
 - b. Document the positive interventions and supports used prior to any HCBS Settings Rule Modifications to the person-centered service plan.
 - c. Document less intrusive methods of meeting the need that have been tried but did not work.
 - d. Include a clear description of the condition that is directly proportionate to the specific assessed need.
 - e. Include regular collection and review of data to measure the ongoing effectiveness of the HCBS Settings Rule Modification.
 - f. Include established time limits for periodic reviews to determine if the HCBS Settings Rule Modification is still necessary or can be terminated.
 - g. Include the informed consent of the individual or, if applicable, the individual's legal decision-maker.
 - h. Include an assurance that interventions and supports will cause no harm to the individual.
 - i. If consent is not obtained, the HCBS Settings Rule Modification cannot be implemented. The placing agency must document the HCBS Settings Rule Modification that was recommended in a risk agreement or in the resident's person-centered service and support plan. The AFH must document the HCBS Settings Rule Modification that was recommended in the residents' AFH person-centered service and support plan or their behavior support plan.

C. Settings that require heightened scrutiny review

Per [42 C.F.R. § 441.301\(c\)\(5\)\(v\)](#), a setting located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment, in a building on the grounds of, or immediately adjacent to, a public institution, or in any other setting that isolates people receiving Medicaid home and community-based services (HCBS) from the broader community of people not receiving Medicaid HCBS is considered an institution unless the Secretary determines, through heightened scrutiny of information presented by the state or other parties, that the setting does not have the qualities of an institution and that the setting does have the

qualities of home and community-based settings.

D. Expectations of HCBS compliance

Only settings compliant with the HCBS settings rule **and** 1-2 bed AFH standards may provide services to residents with HCBS waiver funding. Certifying agencies must take the following actions to demonstrate that all AFHs under their purview are compliant before approving applications for certification or recertification:

- a. Confirm compliance prior to certifying or recertifying an AFH.
- b. Compliance determinations must be documented on certification and recertification forms approved by DHS and maintained for the required record retention period.
- c. All records regarding the certification and recertification of the AFH must be made available to DHS upon request.
- d. For settings that meet the criteria in [Article VIII.C.](#), complete the regular certification review and include both 1-2 Bed AFH HCBS Settings Rule Benchmarks and the Heightened Scrutiny benchmarks. After completing the reviews, and prior to AFH certification, the AFH review findings must be submitted to dhsirisafh@dhs.wisconsin.gov.
- e. Additional information on the HCBS compliance can be found at <https://www.dhs.wisconsin.gov/hcbs/index.htm>. Questions about HCBS compliance should be emailed to dhshcbssettings@dhs.wisconsin.gov.

IX. Resident Rights

A. Introduction

Residents of AFHs retain all their civil, legal, and human rights including the right to freedom of citizenship. This also includes their right to be served by the same governmental services as others in the community such as police, fire, rescue, building inspection, public health, protective services, and other services. Residents, providers, operators, AFH staff, placing agencies, certifying agencies, legal decision-makers, family members, and others should use these services when appropriate. All residents of AFHs have the rights enumerated in this Article. In addition, AFH residents who are receiving services for mental illness, developmental disability, or substance/alcohol use treatment are entitled to have the rights and processes enumerated in [Wis. Stat. § 51.61\(1\)](#), [Wis. Admin. Code ch. 94](#), and [42 C.F.R. § 441.301\(c\)\(4\)](#). All people served in AFHs, including those covered by [Wis. Stat. § 51.61\(1\)](#) and [Wis. Admin. Code ch. 94](#), have all of the rights enumerated in this Article as well, including the right to file grievances.

B. Notification of Rights

Initially upon placement and annually thereafter, the resident must be notified orally and given a written copy of their rights as detailed in this Article. Notification is not required before placement made under emergency conditions but must be completed within seven days after placement. The resident and legal decision-maker must sign a document indicating that their rights have been reviewed with them. The certifying and placing agency have the right to request documentation of the annual notification of rights.

C. Assistance in the Exercise of Rights

The provider, operator, and the placing agency must assist residents in the exercise of all rights specified in this Article.

The AFH may not require residents to waive any rights specified in this Article as a condition of placement or receipt of any service.

D. Rights

All notification of rights, both oral and written, shall be in language understood by the resident, including sign language, foreign language, or simplified language when that is necessary.

A resident of an AFH must have all the following rights:

1. **Freedom from abuse:** To be free from harm by physical, sexual, verbal, or emotional abuse, or neglect.
2. **Fair treatment:** To be treated with courtesy, dignity, and respect in full recognition of their individuality.
3. **Privacy:** To have physical and personal privacy when receiving services and support; in the AFH; in caring for personal needs such as toileting, bathing, and dressing; and when they desire time alone. The resident, resident's room, any

other area in which the resident has a reasonable expectation of privacy, and the resident's personal belongings must not be searched without permission from the resident or their legal decision-maker except when there is probable cause to believe that the resident possesses contraband or items that may be dangerous to the resident or others. The resident or their legal decision-maker must be present for the search and the probable cause must be defined, explained to the resident and/or their legal decision-maker, and documented in the resident's record.

4. **Confidentiality:** To have resident records kept confidential in accordance with, [Wis. Stat. § 51.30](#) and [Wis. Admin. Code ch. DHS 92](#) and any other applicable state or federal law, rule, or program requirement.
5. **Presumption of competency:** To be treated as mentally competent unless there has been a court determination of incompetency under [Wis. Stat. § 54.10](#). A resident who has been adjudicated incompetent has a right to have their legal decision-maker fully informed and involved in executing all aspects of their AFH person-centered service and support plan. A resident who has been adjudicated incompetent must be allowed participation in decision-making to the extent that they are capable.
6. **Self-direction:** To have the opportunity to make decisions relating to services, activities, and other aspects of life in the AFH and community. No curfew, rule, or other restrictions on a resident's self-determination may be imposed unless specifically identified in the resident's AFH and long-term care person-centered service and support plans.
7. **Prompt and adequate treatment:** To receive timely services and prompt and adequate treatment from the provider or operator, and AFH staff that fully respond to the resident's needs as identified in their AFH person-centered service and support plan. This includes timely communication and coordination with health care services provided by appropriate health care professionals.
8. **Treatment of choice:** All residents must be provided with prompt and adequate habilitation, rehabilitation, and community services that fully respond to the needs outlined in their AFH person-centered service and support plan.
9. **Medical treatment:** To receive all treatments prescribed by the resident's physician, and to refuse any form of treatment unless the treatment has been ordered by a court. The written informed consent of the resident or resident's legal decision-maker is required for all treatments administered by the provider, operator, or any staff of the AFH.
10. **Financial affairs:** To control personal resources, manage their own personal finances, or choose a separate service provider to perform this function. Personal finances include but is not limited to personal allowances under federal or state programs. A resident, or their legal financial decision-maker, may make a written delegation of responsibility for management of certain portions of resident's personal finances to someone of their choosing.
11. **Financial exploitation:** To be free from financial exploitation and misappropriation of funds or property.
12. **Clothing and possessions:** To retain and use personal clothing and other personal possessions in a reasonably secure manner and to have access to a reasonable amount of individual secure storage space for their possessions.

13. **Telephone calls:** To be permitted to make and receive phone calls of reasonable number and duration, in private. Reasonable is defined as a number and duration of calls that do not infringe on the rights of others in the home who may utilize the same phone.
14. **Mail:** To receive and send sealed, unopened mail, including packages. The provider or operator must give mail to residents on the day it is received, unless the provider or operator has reasonable cause to believe that the mail being sent or received contains contraband. If the mail is believed to contain contraband, a resident's mail may be opened by the provider or operator but only in the presence of the resident. Staff must not read mail in any case.
15. **Free association and visits:** To have free association and assembly which includes having private visitors **at any time**, having adequate time and private space for visits, with people of the resident's choosing, and to choose social and community activities in which to participate.
16. **Religion:** To participate or to decline to participate in religious and/or spiritual activities. No resident may be required to engage in any spiritual and/or religious activity as a condition of admission or continued residency.
17. **Safe physical environment:** To have a safe environment in which to live. The AFH must safeguard residents from hazardous conditions including environmental hazards.
18. **Freedom from seclusion and restraints:** To be free from seclusion, coercion, physical and chemical restraints, including the use of an as-necessary (PRN) order for controlling acute, episodic behavior, and other restrictive measures.
19. **Least restrictive environment:** Each resident must be provided the least restrictive conditions that allow the maximum amount of personal and physical freedom in accordance with their person-centered assessment, the AFH person-centered service and support plan, and with a court order where applicable.
20. **Labor:** No resident may be required by the provider, operator, or staff of the AFH to perform labor which is of any financial benefit to the AFH unless the resident is fairly compensated for this labor and the resident and the resident's legal decision-maker, request or agree to the opportunity voluntarily. This does not apply to labor involving a fair share of routine or shared household chores.
21. **Work:** To have the freedom to work for and be fairly compensated by a community-based employer of their choice.
22. **Medications:** To receive all prescribed medications in the dosage and at the intervals prescribed by the resident's physician, and to refuse medication unless there has been a court order under [Wis. Stat. § 51.61\(1\)\(g\)](#) or [Wis. Stat. § 55.14](#).
23. **Service charges:** To be fully informed, verbally and in writing, of all services and charges for the services. This must be done before or at the time of admission, and 30 days prior to any change in costs for any charge to the resident including charges for room and board.
24. **Informed of rights:** The resident and the resident's legal decision-maker, has the right to be informed of all the rights enumerated in this Article and all other rights that apply to that resident under state and federal laws and rules. This includes the right to be informed of grievance procedures available to a resident of the AFH.
25. **Grievance procedure:** To have access to a grievance procedure as described

under [Article IX.F.](#), when a resident believes that any rights listed in this Article have been violated.

26. **Marriage:** To have the freedom to marry and have children unless this right has been revoked in a court of law.
27. **Vote:** To have the right to vote unless this right has been revoked in a court of law.
28. **Freedom of speech:** To have the right of freedom of speech and expression without fear of reprisal or discrimination.
29. **Social activity choice:** To establish a personal schedule reflecting preferred times to engage in leisure and restful activities both in the home and in the broader community.
30. **Food access:** To access food that meets their needs at any time as outlined in [Article VII.J.1-6.](#)
31. **Choice of providers:** To exercise complete choice of providers of physical health care, behavioral and mental health care, and pharmaceutical services.
32. **Other rights:** In addition to rights established under these standards, there may be other applicable rights with which the AFH provider or operator is required to comply. Providers or operators are required to comply with all applicable federal, state, and local statutes and rules relating to resident rights.

The certifying agency is responsible for ensuring that these rights have been discussed with the AFH provider or operator and that the resident or legal decision-maker has been informed of the provisions of those Articles that apply.

E. Limitation or denial of rights

1. **Rights that can be denied or limited:**
 - a. The right to free association and visits.
 - b. The right to use the phone.
 - c. The right not to be secluded or restrained.
 - d. The right to reside in the least restrictive environment possible.
 - e. The right to wear own clothes and use own belongings.
 - f. The right to have a reasonable amount of storage space for belongings.
 - g. The right to privacy.

Denial and limitations of these rights can last only for so long as the denial or limitation is necessary to protect the resident's health, safety, and well-being. Some limits or denials may be long-lasting if the resident receiving services continues to pose a danger to themselves or others or when limited by a court-order.

2. **Reasons and conditions for rights denial or limitation**
 - a. Good cause for denial or limitation of a right exists only when the provider or operator has reason to believe the exercise of the right would create a security problem, adversely affect the resident's services, or seriously interfere with the rights or safety of others.
 - b. Denial of a right may only be made when there are documented reasons to believe there is not a less-restrictive way of protecting the threatened security,

- service, or safety interests.
- c. No right may be denied when a limitation can accomplish the stated purpose.
- d. No limitation may be more stringent than necessary to accomplish the purpose.
- e. No right may be denied or limited without the participation of the placement agency.

The placement agency will provide ongoing monitoring to assure the limitation or denial remain appropriate.

3. **Notice:** At the time the denial or limitation on rights is enforced, written notice must be provided by the AFH to the resident and the resident's legal decision-maker. A copy of the notice must be placed in the resident's file. For residents served by an HCBS waiver program, the denial or limitation of rights must be justified and documented in both the resident's AFH and long-term care person-centered service and support plans.
The written notice must:
 - a. State the specific right to which the limitation or denial applies.
 - b. State the specific reason for the rights denial or limitation of rights.
 - c. State the details of the denial or limitation of rights.
 - d. State the expected duration of the denial or limitation of rights.
 - e. State how the provider plans to support the resident in the absence or limitation of rights.
 - f. Include the informed consent of the individual or legal decision-maker. If consent is not obtained, the rights limitation cannot be implemented. The placing agency must document the rights limitation that was recommended in a risk agreement or in the LTC person-centered service and support plan. The AFH must document the rights limitation that was recommended in the residents' AFH person-centered service and support plan or their behavior support plan.
 - g. Inform the resident and the resident's legal decision-maker that the provider or operator, will hold a meeting about limitation or denial of the right at the resident's or legal decision-maker's request. The placement agency may be included in this meeting as appropriate.
 - h. State the specific conditions required for restoring or granting the right at issue.
 - i. Document the positive interventions and supports used prior to any modification to the AFH and LTC person-centered service and support plans.
 - j. Inform a resident whose rights are limited or denied in accordance with this subsection that the resident may file a grievance concerning the limitation or denial. See [Article IX.F.](#) for more information about a resident's right to file a grievance.
4. **Meeting:** Within three days after receiving a request from the resident or legal decision-maker, the AFH provider or operator must hold a meeting about the limitation or denial of rights. The placement agency, or the certifying agency if

there is no placement agency must participate.

5. **Review schedule:** Rights limitations or denials must be reviewed monthly by the AFH to determine if they are still necessary.
 - a. Exceptions to monthly review may be made when the limitation or denial is part of the resident's long-term care person-centered service and support plan and is reviewed every six months.
 - b. The provider must document the discussion of the review of the limitation or denial.

F. Right to file a grievance

1. A resident, the resident's legal decision-maker, or designated representative may file a grievance if they believe that a right of the resident has been violated.
2. The AFH shall have a written grievance procedure established in accordance with [Wis. Admin. Code § DHS 94.04](#)
3. Residents have the right to advocacy assistance throughout the grievance process. The AFH shall assist residents as needed and enable its residents to have access to the Certifying Agency, the State Board on Aging and Long-Term Care and its Ombudsman program, the Wisconsin Coalition for Advocacy and any other organization providing advocacy assistance. The AFH shall assure the following for representatives of these agencies:
 - a. The ability to communicate privately and without restriction with any resident who does not object to the communications.
 - b. Access to medical and personal records of the resident, with the consent of the resident or resident's legal decision-maker, or an order of the court.
4. The AFH shall provide a written summary of the resident's grievance, the findings and the conclusion and any action taken to the resident or resident's legal decision-maker, the designated representative, and the resident's placing agency. The written grievance summary shall be included in the resident's record.
5. Any form of coercion that discourages or prevents a resident or the resident's legal decision-maker from exercising any of the rights under this Article, including the right to file a grievance, is prohibited. Any form of retaliation by the provider, operator, AFH staff, or any other agent of the AFH against a resident or the resident's legal decision-maker for exercising any of the rights in this Article is prohibited. This includes a prohibition against coercion or retaliation against a service provider who assists a resident or the resident's legal decision-maker in exercising any of the resident's rights in this Article. Violation of this provision may be grounds for revoking certification of the AFH or the contract with the certification or funding agency.

X. Records and Reports

A. Maintaining resident records

The provider or operator must keep all resident records confidential, maintain a record for each resident, and store it in a secure location within the AFH in accordance with all applicable state and federal laws, regulations, and program requirements.

B. Medical records

Within the limits of applicable confidentiality laws and rules, providers or operators must keep a log of all medical, dental, and other health care examinations and services obtained by each resident and retain any written reports received from the providers of these examinations in a secure storage file. The log of medical examinations should include the date of the service, the name and contact information of the provider, the reason for the exam, and the results, given by the provider, including any new orders for prescriptions, treatments, or follow up appointments required by the resident.

C. Access to records

A resident or the resident's legal decision-maker must be given access to and/or copies of the resident's records upon request. The provider or operator may charge the resident or their legal decision-maker for copies at a cost no greater than the cost of reproduction. Requests for information under this subsection shall be processed within 48 hours of the receipt of the request.

D. Contents

Each record must contain:

- a. The resident's name and date of birth.
- b. The name, address, telephone number(s), and email address of the legal decision-maker, as well as the capacity through which a legal decision-maker has authority to make decisions on the resident's behalf (e.g., guardianship documents, activated Power of Attorney for Healthcare, etc.).
- c. A copy of the resident's legal decision-maker papers or Advance Medical Directive, including Power of Attorney for Healthcare and activation form where applicable.
- d. The name, address, telephone numbers, and email address of any other people identified by the resident, as well as their relationship to the resident.
- e. The name, address, email address, and telephone number of the resident's primary care providers and all other external service providers who shall be notified in the event of an emergency or of changes to the resident's AFH person-centered service and support plan, including the resident's pharmacy of choice.
- f. The name, address, email address, and telephone number of the placing agency and the resident's support and service coordinator, consultant, or care manager.
- g. Medical insurance and/or Medicare and Medicaid identification numbers.
- h. Funeral home of the resident's choice, if provided by the resident or legal decision-maker.

- i. All available medical reports received during the previous two calendar years from any primary care professional, dentist, or other professional health care provider visit if the resident was placed in this AFH during that time.
- j. The resident's current person-centered AFH service and support plan including but not limited to diagnosis, medication list, special diet, allergies, etc.
- k. The most current agreement for services between the resident and the AFH.
- l. The resident's preferred resuscitation status.
- m. For AFH residents who are receiving services for mental illness, developmental disability, or substance/alcohol abuse treatment: Documentation that the resident and the resident's legal decision-maker have been notified of rights in accordance with [Wis. Admin. Code § DHS 94.04](#), and of grievance procedures under [Wis. Admin. Code § DHS 94.28](#).

E. Records retention and disposal

Record retention and disposal policy must conform to the requirements of the placing and long-term care agency. If this does not apply, resident records must be maintained for not less than seven years after a resident leaves the home or dies.

XI. Exceptions to a Requirement

A certifying agency or placement agency may apply, on behalf of the AFH, resident, or legal decision-maker, for an exception to requirements indicated in [Article XI.A](#). DHS will review and decide whether to grant exceptions to the requirements in these standards. If an exception is granted it may be unconditional or with conditions

A. Standards subject to exception requests

1. Exceptions may be considered for these Articles:
(as noted with * (asterisk) in the standards)
 - a. [Article IV.C.1](#). Privacy
 - b. [Article IV.C.2](#). Electronic monitoring
 - c. [Article IV.C.11](#). Windows/ventilation
 - d. [Article IV.C.12](#). Limitation on the use of business
 - e. [Article IV.D.2](#). Bathroom door
 - f. [Article IV.E.2](#). Floor area for ambulatory residents
 - g. [Article IV.E.4](#). Bedroom windows
 - h. [Article IV.E.5](#). Limitations on bedroom location
 - i. [Article IV.E.6.a.1](#). Floor area for non-ambulatory residents
 - j. [Article IV.E.7.a](#). Bedroom doors equipped with lock
 - k. [Article IV.E.7.b](#). Resident ability to lock bedroom door
 - l. [Article IV.E.8](#). Privacy in sleeping unit
 - m. [Article IV.E.9](#). Own bed in bedroom
 - n. [Article IV.F.1](#). Kitchen space and equipment
 - o. [Article IV.G.1](#). Fire Safety (specific to mounting extinguisher only)
 - p. [Article VII.I.1](#). Medication storage
 - q. [Article VII.K.7](#). Duration of resident respite stay
 - r. [Article VII.K.8](#). AFH maximum respite days
2. Exceptions will not be considered for any requirements of the federal home and community-based settings (HCBS) rules [42 C.F.R § 441.301\(c\)\(4\)](#) and [42 C.R.F § 441.710](#), unless specified in [42 C.F.R. § 441.301\(c\)\(4\)\(vi\)\(F\)](#) and [42 C.F.R. § 441.710\(a\)\(1\)\(vi\)\(F\)](#).
3. For residents participating in the Medicaid home and community-based waiver programs exception requests for Articles listed below require both an approved exception request and a HCBS Settings Rule Modification. When the exception request is granted, complete the HCBS Settings Rule Modification process in [Article VIII.B](#).
 - a. [Article IV.C.1](#). Privacy
 - b. [Article IV.C.2](#). Electronic monitoring
 - c. [Article IV.E.7.a](#). Bedroom door equipped with a lock
 - d. [Article IV.E.7.b](#). Resident able to lock bedroom door
 - e. [Article IV.E.8](#). Resident(s) must have privacy in their sleeping or living unit

B. Requirements for an exception

1. Exceptions must be granted by DHS review committee prior to implementation by the AFH.
2. Exception requests must be submitted in writing via the [Exception Request Form](#) to the DHS review committee and must include:
 - a. The name and address of the AFH.
 - b. The name and title of the person requesting the exception.
 - c. Effective or anticipated start and end date of AFH certification.
 - d. The agency represented by the person submitting the request (e.g., name of placement or certifying agency).
 - e. The article(s) and sub-article(s) in the standards to which the exception is being requested.
 - f. Why an exception is needed.
 - g. A detailed description of what will be done or provided in lieu of the provision in the Standards.
 - h. How and if approving the exception will impact the resident's health, safety, and well-being.
 - i. How the exception request relates to criteria in [Article XI.D.](#)
 - j. Explanation of how the exception will be monitored by both the AFH and the certifying or placement agency including frequency with which monitoring will be required.
 - k. The date on which the exception, if granted, will expire.
 - l. All other information required on the Exception Request Form.
3. The DHS review committee may approve or deny the exception request at its sole discretion and must provide written rationale for its decision to the agency submitting the request.

C. Deadline for decision

The DHS review committee will only review exception requests that have received approval from the placement agency or certifying agency. The placement agency or certifying agency must submit the exception request to the DHS review committee no more than 30 days after the provider, operator, resident, or resident's legal decision-maker has requested the exception. The DHS review committee has 30 days to make a decision. The placement agency must notify the certifying agency of all approved exceptions.

D. Criteria for approval of an exception

1. The exception to the requirement will produce equivalent quality, safety, or other result comparable to the original requirement.
2. The exception will not jeopardize the health, safety, or welfare of the resident or any other individual residing or working in the home.

E. Conditions

1. The exception is non-transferrable and only applies to the specific location of the AFH requesting the exception and/or to the specific resident who is the subject of the exception request.

2. The certifying agency or placement agency must approve or deny exception requests and may do so with or without additional conditions. Exception requests approved by the certifying or placement agency should be sent to the DHS review committee for final approval.
3. Violation of a condition of approval or a time limitation, under which the exception is granted, constitutes a violation of these standards, and may result in revocation of the exception, discontinuation of the contract with the placement or certifying agency, where applicable, and revocation of the AFH certification.
4. The exception will not be in effect longer than the AFH certification.