# Home and Community-Based Settings (HCBS) Rule Modification–IRIS Program

## **Instructions:**

The HCBS Settings Rule Modification form must be completed by any participant residing in a provider-owned or provider-controlled residential setting. HCBS Settings Rule Modifications (modifications) are restrictions or limitations to HCBS rights guaranteed to Medicaid members under the HCBS Settings Rule. Adult residential settings are subject to the HCBS Settings Rule per 42 CFR § 441.301(c)(4). The IRIS (Include, Respect, I Self-Direct) program uses this form to meet federal requirements. This form must be reviewed and completed at initial plan development, annually at plan renewal, or more often based on the participant’s needs. The IRIS consultant agency (ICA) must review the [Form Instructions](#_Form_Instructions) and complete Step 1 with the participant.

If the participant determines a modification may be required, the participant and their residential setting provider complete the remainder of the form within 30 days of identifying the assessed need. The ICA must upload this completed form to DHS’ enterprise case management system and provide the participant a copy of the form to distribute to the participant’s residential provider.

Additional information on modifications can be found on [DHS' HCBS Settings Rule webpage](https://www.dhs.wisconsin.gov/hcbs/index.htm), dhs.wisconsin.gov/hcbs/index.htm.

### Step 1: Demographics

1. Name (Last, First, MI): Name

2. MCI number: MCI

3. Plan start date: Click or tap to enter a date.

4. Plan end date: Click or tap to enter a date.

5. IRIS consultant agency: ICA

6. IRIS consultant (Last, First): Name

7. Discussion date: Click or tap to enter a date.

8. Complete and return to ICA: Click or tap to enter a date.

#### Step 1a: Choice of Setting

[ ]  By checking this box, the participant attests the current living arrangement was the participant’s choice among other setting options and the choice of setting was based off the participant’s needs and preferences.

If the setting option was **not** the participant’s choice among other setting options and the setting was **not** based off the participant’s needs and preferences, the ICA must document the response in the participant’s LTC Needs Panel in accordance with Program Policy.

#### Step 1b: HCBS Settings Rule Modification (Check one.)

[ ]  By checking this box, I, the ICA, attest I have discussed and reviewed the HCBS Settings Rule Modification Form with the participant, and the participant determined an HCBS Settings Rule Modification is **not needed**.

[ ]  By checking this box, I, the ICA, attest I have discussed and reviewed the HCBS Settings Rule Modification Form with the participant, and the participant determined an HCBS Settings Rule Modification is **needed.** The participant must complete the form with their residential provider and return it to the participant’s ICA within 30 days. See Step 1, Item 8 for the return by date.

### Step 2: Identify HCBS Settings Rule Modification(s)

Residential provider setting name: Name

Name of provider staff who completed form with participant: Name

Check each HCBS right listed below that requires a modification based on assessed needs. (Check all that apply.)

[ ]  \*Each individual has privacy in their sleeping or living unit.

[ ]  \*Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.

[ ]  Individuals sharing units have a choice of roommates in that setting.

[ ]  Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.

[ ]  Individuals have the freedom and support to control their own schedules and activities

[ ]  Individuals have access to food at any time.

[ ]  Individuals can have visitors of their choosing at any time.

\* For participants in 1-2 bed adult family homes (AFHs), this HCBS Settings Rule Modification Form must be completed and submitted to DHS prior to submitting an exception request.

[ ]  After discussion with the residential provider, the participant determines no modification is needed. Participant does not complete the remainder of the form and returns form to the ICA.

### Step 3: Questionnaire

1. What is the specific, individualized assessed need that warrants a modification? Describe the assessed behavior, medical, or other need that impacts the health, safety, and/or well-being of the individual or the community and indicate that the assessed severity of the need justifies the implementation of the modification.

Click or tap here to enter text.

**1a.** If this is a continuing modification, provide a summary of the data that has been collected in the last twelve months. If this is **not** a continuing modification, skip this question and go to question 2.

Click or tap here to enter text.

**1b.** Does the data collected indicate if the modification should be continued as is, modified, or discontinued? If the participant and residential provider determine all modifications should be discontinued stop here and return the completed form to the ICA. If the modification(s) should be continued as is or modified, complete the remainder of this form. **(Check one.)**

[ ]  Continued, as is [ ]  Modified [ ]  Discontinued

1. Describe what positive interventions and supports as well as what less intrusive methods were used prior to adding an HCBS Settings Rule Modification to the IRIS Service Plan. If positive interventions, supports, and/or less intrusive methods have not been tried or the participant and residential provider determine new or different positive interventions, supports, and less intrusive methods need to be tried before an HCBS Settings Rule Modification is implemented, develop a plan for trying less intrusive methods and/or positive interventions and supports. Answer questions 3, 4, and 5 below to describe the plan for trying less intrusive methods and/or positive interventions and supports.

Click or tap here to enter text.

1. Ensure the modification described in this section aligns with the assessed need identified in Step 1 and Step 2. Describe the conditions of the modification that are directly proportionate to the specific assessed need by providing a response for the following questions:

**3a.** What is the modification being implemented?

Click or tap here to enter text.

**3b.** How will the modification be implemented?

Click or tap here to enter text.

**3c.** Who is responsible for implementing the modification?

Click or tap here to enter text.

1. Providers must regularly collect and review data to measure the ongoing effectiveness of the HCBS Settings Rule Modification.

**4a.** What data will be collected?

Click or tap here to enter text.

**4b.** When and how often will data be collected?

Click or tap here to enter text.

**4c.** Who is responsible for collecting the data?

Click or tap here to enter text.

**4d.** Who is responsible for reviewing the data collected?

Click or tap here to enter text.

**4e.** Provide any additional information regarding the regular collection and review of the data (optional).

Click or tap here to enter text.

1. The participant and ICA must discuss and review the effectiveness of the modification annually to determine if the modification is still needed. **(Check one.)**

[ ]  The participant and ICA will only evaluate the effectiveness of the modification annually. If the modification will be continued, the participant and residential provider will also review annually.

[ ]  The participant and residential provider agree to evaluate the effectiveness of the modification more frequently. What is the timeline and plan for reviewing the data to ensure the effectiveness of the modification? Describe the timeline and plan for reviewing the data in the space below. The participant must report any changes to the ICA.

Click or tap here to enter text.

### Step 4: No harm assurance

[ ]  The identified HCBS settings rule modification(s) will cause **no** **harm** to the participant.

### Step 5: Participant understanding

My signature indicates: **(Check all that apply.)**

[ ]  My **ICA and I** have discussed what an HCBS Settings Rule Modification is and how it may apply to me.

[ ]  My **residential provider and I** have discussed what an HCBS Settings Rule Modification is and how it may apply to me.

[ ]  I understand the specific assessed need identified in Step 2 with my residential provider and how the assessed need requires an HCBS Settings Rule Modification.

[ ]  I understand the HCBS Settings Rule Modification is required for me and others to be healthy and safe.

[ ]  I understand that the HCBS Settings Rule Modification will cause me no harm.

### Step 6: Informed consent

Check a box below. My signature indicates:

[ ]  I provide informed consent to the HCBS settings rule modification described in this form by checking this box and signing below.

[ ]  I do **NOT** provide consent and understand this HCBS settings rule modification will not be implemented. I will discuss potential risk with my ICA.

**Signature** — IRIS Participant or Legal Decision Maker:

Name — IRIS Participant or Legal Decision Maker (printed): Date signed:

Relationship to Participant: Click or tap here to enter text.

## Distribution:

**Original** must be returned to the ICA and uploaded to the DHS enterprise care management system.

**Copy** must be provided to the participant to be redistributed to the residential setting provider and any applicable persons.

# Form Instructions

### What is the HCBS Settings Rule Modification?

The Home and Community-Based Services (HCBS) Settings Rule was published in 2014 by the Centers for Medicare & Medicaid Services (CMS). The federal requirements deﬁne the qualities of settings eligible for reimbursement for Medicaid home and community-based services. Under the requirements, DHS must ensure that settings in which home and community-based services are provided meet and remain in compliance with the settings rule.

IRIS participants have the right to make choices about their daily activities, schedule, and food choices. HCBS Settings Rule Modifications (modifications) are restrictions or limitations to their rights under federal requirements. These modifications can apply to a specific rule requirement in certain circumstances when there is an assessed need for an individual resident.

Only certain parts of the HCBS settings rule can be modified. The following are the **only** parts of the rule that can be modified:

* Each individual has privacy in their sleeping and living units
* Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors
* Individuals sharing units have a choice of roommates in the setting
* Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement
* Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time
* Individuals can have visitors of their choosing at any time

### Who does the HCBS Settings Rule Modification apply to?

The HCBS Settings Rule Modification applies to any participant receiving residential services in a provider-owned or provider-controlled residential setting. The HCBS Settings Rule Modification process must be followed to determine if a participant may need a modification based on their assessed needs.

### Step 1 instructions

The ICA completes the demographic information and reviews and discusses the HCBS Settings Rule requirements with the participant. A description for each demographic field is provided below.

Step 1, Item 1: Name – participant (Last, First). The participant’s first and last name entered as last name, first name.

Step 1, Item 2: MCI number. The participant’s Medicaid ID number.

Step 1, Item 3: Plan start date. The start date of the participant’s plan.

Step 1, Item 4: Plan end date. The end date of the participant’s plan.

Step 1, Item 5: IRIS consultant agency. Name of the ICA.

Step 1, Item 6: IRIS consultant (Last, First). The first and last name of the participant’s IRIS consultant.

Step 1, Item 7: Discussion date. The date the HCBS Settings Rule Modification conversation occurred between the ICA and participant.

Step 1, Item 8: Complete and return to the ICA by. The date the participant must return the completed form to the ICA.

During the discussion, the participant determines if a modification may be required. The ICA enters the date of the discussion in Step 1, Item 7, Discussion date field.

**Step 1a instructions**

For the Choice of Setting, the participant attests the current living arrangement was the participant’s choice among other setting options and the choice of setting was based off the participant’s needs and preferences. If the setting option was not the participant’s choice among other setting options and the setting was not based off the participant’s needs and preferences, the ICA must document the information in the LTC Needs Panel in accordance with Program Policy.

**Step 1b instructions**

For the HCBS Settings Rule Modification section, the participant must make a selection. If the participant determines a modification is **not** required, the ICA checks the first box and uploads it to the DHS enterprise case management system. The ICA must provide the participant with a copy of the form to distribute to the participant’s residential provider.

If the participant determines that a modification is needed, the ICA checks the second box and enters the return by date in Step 1, Item 8, Complete and return to ICA by, field. This date is 30 days from the day of the discussion with the participant. The ICA must inform the participant of this date. The participant must complete the remainder of the form with the residential setting provider and return the completed form to their ICA within 30 days.

The unwillingness or inability to comply with HCBS Settings Rule responsibilities may result in a program-requested disenrollment from the IRIS program due to health and safety concerns or due to a general unwillingness to comply with program requirements. For additional information, refer to the [Program Enrollment Policy, P-03547 (PDF)](https://www.dhs.wisconsin.gov/publications/p03547.pdf).

**Note to ICA:** Once the participant returns the completed form, the ICA must confirm that the participant completed all applicable questions in Step 3. The ICA must verify if all check boxes are marked in Step 4 and Step 5. If the participant did not check **all** checkboxes for Step 4 and Step 5, the ICA must discuss any of the unchecked boxes with the participant. The expectation and goal is for the participant to check all the boxes to determine the participant understands, acknowledges, and accepts the information provided and discussed when completing the form. Lastly, the ICA must check Step 6 for the participant’s informed consent and signature. Review the form and document any additional discussions with the participant in a detailed case note. The original form must be maintained by the ICA and uploaded to the DHS enterprise case management system. The ICA must provide the participant with a copy of the completed form to redistribute to the residential setting provider and any applicable persons.

### Step 2 instructions

The participant and residential provider complete the remainder of the form. Document the name of the residential provider setting as well as the name of the provider staff who completed the form with the participant. The participant informs the residential provider of the deadline provided by the ICA and then reviews the assessed needs and checks any that may apply. The participant and residential provider may utilize the [Home and Community-Based Services (HCBS) Settings Rule Benchmarks: 1-2 Bed Adult Family Homes (AFH), P-02060](https://www.dhs.wisconsin.gov/publications/p02060.pdf) as a resource for descriptions and examples of each assessed need.

Check the box for each HCBS right requiring a modification based on a specific assessed need. The participant may reach out to their ICA for information and assistance anytime throughout the HCBS Settings Rule Modification process. **Note to 1-2 bed AFH residential providers:** For participants in 1-2 bed adult family homes (AFHs), this HCBS Settings Rule Modification form must be completed and submitted to DHS prior to submitting an exception request.

After review, if the participant and residential provider determine HCBS Settings Rule Modifications are unneeded, check the last box indicating no modification is needed. If this box is checked, the participant and residential provider do not complete the remainder of the form and return the form to the ICA.

### Step 3 instructions

The participant and residential provider review and complete all questions in Step 3. The participant and residential provider must provide a thorough response to each question. Definitions can be found on DHS’ HCBS Settings Rule Modification webpage provided at the top of the form.

**Key information:**

* **Positive interventions** are evidence-based, intentional acts or series of actions meant to create a safe and worthwhile environment. It focuses on identifying, teaching, and reinforcing positive behaviors as well as using strategies to address problem behavior.
* **Positive supports are** the help or tools that individuals need to do something successfully. Supports can be people who are paid, people who are not paid, technology, medical equipment, mobility aids, home modifications, etc.
* **Least intrusive methods** are methods to achieve a desired outcome with the least amount of disruption to an individual’s independence, dignity or daily life. It prioritizes using the least restrictive means necessary to safeguard individual rights and well-being. Less intrusive methods may overlap with positive intervention and supports.
* **An HCBS Settings Rule Modification should only be used if it is determined to be the least-intrusive method to achieve the desired outcome.** If positive interventions, supports, and/or less intrusive methods have not been tried or the participant and residential provider determine new or different positive interventions, supports, and/or less intrusive methods need to be tried before an HCBS Settings Rule Modification is implemented, develop a plan for trying less intrusive methods and/or positive interventions and supports. Answer questions 3, 4, and 5 to describe the plan for trying less intrusive methods and/or positive interventions and supports.
* **Proportionate to assessed need** means the modification must be reasonable for the individual’s identified need for limits in HCBS rights.

### Step 4 instructions

Step 4 is an attestation that the modification(s) will not endanger the participant’s health or safety which is strictly prohibited. The attestation must be discussed with the participant and residential provider to ensure there is understanding that the modification cannot cause the participant any harm.

### Step 5 instructions

The participant reviews Step 5: Participant understanding. The participant must read each attestation and check all that apply. The participant may reach out to their ICA for information and assistance anytime throughout the HCBS Settings Rule Modification process.

### Step 6 instructions

The participant must check one of the boxes in Step 6. If the participant checks the first box, the participant must sign and date the form and return it to their ICA. If the participant checks the second box, the participant does **not** sign and provides the completed form to their ICA.