WISCONSIN DEPARTMENT of HEALTH SERVICES

Provider-Controlled Setting Alignment Project

Agenda

- High Level Project Overview
- Background
- Project Specifics
- Implementation
- Questions and Answers

High-level Project Overview

Summary

In many cases, supportive home care is working within the definition, providing needed services for individuals in the community.

Unfortunately, in some settings the supportive home care provider is operating like an adult family home.

Background

The Wisconsin Department of Health Services (DHS) identified that some providers billing a daily supportive home care rate were running the home as a licensed/certified Adult Family Home.

DHS received multiple concerns and complaints from the Department of Justice and local law enforcement.

DHS identified critical incidents.

Advocates highlighted concerns in unlicensed homes.

Goals

- Verify members and participants are living in an allowable setting.
- Ensure members and participants are living in the least restrictive environment.
- Validate services are being authorized properly.
- Educate providers on how to operate within the rules and regulations.

Background

What is a provider-controlled setting?

- A provider-controlled setting is one in which a member/participant, who is not related to the provider or setting owner, resides and receives support and services above the level of room and board, and one of the following applies:
  - The provider has a direct or indirect financial relationship with the setting owner, but does not lease or own the setting.
  - The setting owner has influence over which service providers the member/participant uses.
  - The provider holds the lease or title to the home.
- A provider-controlled setting must be certified or licensed to receive Medicaid funding.

What is supportive home care?

Supportive home care (SHC) is a service in the benefit package that includes specific tasks to support an individual's activities of daily living (ADLs) and instrumental activities of daily living (IADLs).

Properly Functioning Supportive Home Care

The provider:

- Does not lease or own the setting.
- Meets the member/participant's needs through unbundled services (SHC, nursing, on-call, daily living skills, and care and service coordination).
- Does not have a relationship with the setting owner.

The member/participant:

- Holds the lease.
- Has full choice of the service provider.
- Does not share services with another individual.

Allowable Supportive Home Care Practices

- The member/participant has their own lease and no services beyond typical shared amenities are provided by the setting owner.
- The member/participant owns their own unit in a shared community.
- Services above room and board—such as dressing, assisting with medication, and bathing —are independently arranged by the member/participant and they have full choice of the service provider.
- The individual is not sharing any services with another individual.

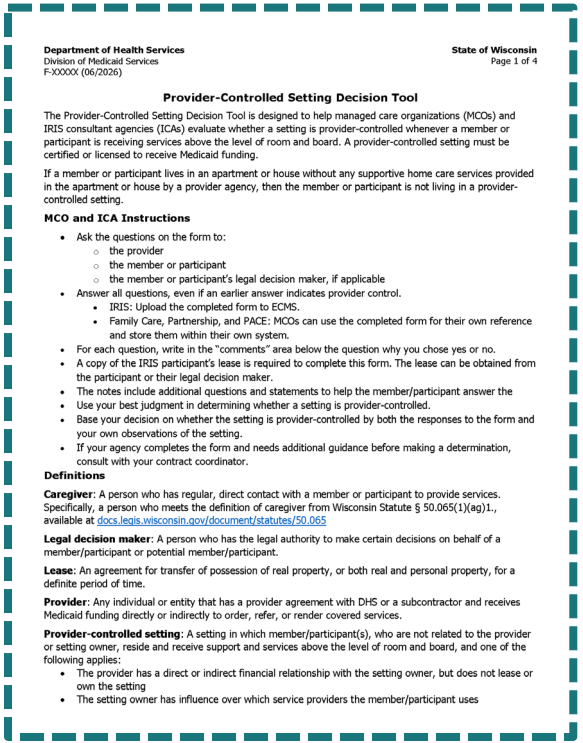
Unallowable Supportive Home Care Practices

- Multiple services are bundled at one rate.
- Care is shared among residents in the setting.
- The setting owner or provider can evict a member/participant for not using a specific provider.
- Setting owner or provider has influence over which provider the member/participant uses to receive services in the setting.
  - Setting owner or provider requires the tenant to use a specific provider.

Project Specifics

Provider-Controlled Setting Determination form

- The form will be used by managed care organizations (MCOs) and IRIS consultant agencies (ICAs) to authorize supportive home care and evaluate whether a setting is provider-controlled.
- The form has eight questions that ICs and MCO staff will ask participants/members and/or their providers.
  - ICs and MCO staff will also use observation skills to confirm answers.



Department of Health Services
Division of Medicaid Services
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Provider-Controlled Setting Decision Tool

The Provider-Controlled Setting Decision Tool is designed to help managed care organizations (MCOs) and IRIS consultant agencies (ICAs) evaluate whether a setting is provider-controlled whenever a member or participant is receiving services above the level of room and board. A provider-controlled setting must be certified or licensed to receive Medicaid funding.

If a member or participant lives in an apartment or house without any supportive home care services provided in the apartment or house by a provider agency, then the member or participant is not living in a provider-controlled setting.

MCO and ICA Instructions

- Ask the questions on the form to:
  - the provider
  - the member or participant
  - the member or participant's legal decision maker, if applicable
- Answer all questions, even if an earlier answer indicates provider control.
  - IRIS: Upload the completed form to ECMS.
  - Family Care, Partnership, and PACE: MCOs can use the completed form for their own reference and store them within their own system.
- For each question, write in the "comments" area below the question why you chose yes or no.
- A copy of the IRIS participant's lease is required to complete this form. The lease can be obtained from the participant or their legal decision maker.
- The notes include additional questions and statements to help the member/participant answer the
- Use your best judgment in determining whether a setting is provider-controlled.
- Base your decision on whether the setting is provider-controlled by both the responses to the form and your own observations of the setting.
- If your agency completes the form and needs additional guidance before making a determination, consult with your contract coordinator.

Definitions

Caregiver: A person who has regular, direct contact with a member or participant to provide services. Specifically, a person who meets the definition of caregiver from Wisconsin Statute § 50.065(1)(ag)1., available at docs.legis.wisconsin.gov/document/statutes/50.065

Legal decision maker: A person who has the legal authority to make certain decisions on behalf of a member/participant or potential member/participant.

Lease: An agreement for transfer of possession of real property, or both real and personal property, for a definite period of time.

Provider: Any individual or entity that has a provider agreement with DHS or a subcontractor and receives Medicaid funding directly or indirectly to order, refer, or render covered services.

Provider-controlled setting: A setting in which member/participant(s), who are not related to the provider or setting owner, reside and receive support and services above the level of room and board, and one of the following applies:

- The provider has a direct or indirect financial relationship with the setting owner, but does not lease or own the setting
- The setting owner has influence over which service providers the member/participant uses

Questions on the Provider-Controlled Setting Determination form

1. Does the provider lease or own the setting?

2. Does the provider have a direct or indirect financial relationship with the setting owner?

3. Does the setting owner or provider have influence over which provider the member/participant uses to receive services in the setting?

4. Does the provider have influence over whether a member/participant is accepted to live in the setting?

Questions on the Provider-Controlled Setting Determination form

5. Does the provider have a care plan for members/participants in the setting?

6. Are the care and services provided in the setting shared by members/ participants in the setting?

7. Is there an individual other than the caregiver who coordinates staff or other professionals for members/participants?

8. In a setting with multiple units or members/participants, are caregivers available onsite or in the unit 24/7?

Determination

Did the IC or MCO staff answer yes to any of the questions?

If yes, the setting is provider-controlled.

If no, the setting is not provider-controlled.

If your agency completes the form and needs additional guidance before deciding, consult your contract coordinator.

Form Submission

IRIS (Include, Respect, I Self-Direct Program)
Upload the completed form to ECMS.

Family Care, Partnership, and PACE (Program of All-Inclusive Care for the Elderly)
MCOs can use the completed form for their own reference and store them within their own system.

Questions and Answers

Implementation

Provider Education

- DHS communicated to the Disability Service Provider Network (DSPN).
- DHS will present at the Long-Term Care Advisory Council.
- DHS will present at the IRIS Advisory Council.

IRIS Next Steps

- DHS will share the priority list to review.
  - Includes approximately 80 settings between all ICAs that meet the initial criteria.
- Five settings per ICA from the priority list should be reviewed per month beginning August 1, 2026.
  - If it is determined a setting is provider-controlled, reach out to your DHS contract coordinator, before contacting the participant or provider.
- Your DHS contract coordinator will review a sample of the determinations that have been uploaded.

IRIS Next Steps (cont.)

- For **newly** enrolled participants looking to use SHC with a daily rate beginning August 1, 2026, ICAs must complete the Provider-Controlled Setting Determination form.
- For participants who use SHC with a daily rate, and a plan effective date of September 1, 2026, ICAs must complete the Provider-Controlled Setting Determination form at the participant's annual plan renewal.

What's Next: Family Care, Partnership, and PACE

- The MCOs have been working on proper authorization and licensing the last two years.
  - Very few have settings that require licensure or certification.
- DHS will provide training in June, and the MCOs must begin using the Provider-Controlled Setting Determination form, F-03447, on August 1, 2026.
- For remaining providers who need to comply, DHS will work with each MCO to develop their own plan.

If a Setting is Determined to be Provider-Controlled

- Providers have three options:
  - Become a licensed or certified adult family home
  - Refuse to become licensed or certified and participants/members will have to find a new provider
  - Provide SHC appropriately.

How can providers become licensed or certified?

Within 30 days of receiving a provider-controlled setting determination, providers need to start the process to become a licensed or certified adult family home.

- Guidance for licensing and certification:
  - Licensing a 3-4 bed Adult Family Home dhs.wi.gov/regulations/residcomm/afh.htm
  - Certifying a 1-2 bed Adult Family Home dhs.wi.gov/regulations/afh/1-2bed/index.htm

Next Steps for ICAs

Train ICs on Provider-Controlled Determination form and FAQs.

Work with DHS to develop:

- Notification letter to participants.
- Rollout plan with identified providers.
- Transition timeline.

Begin setting evaluations on August 1, 2026.

Questions and Answers

Thank you!

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the health and safety of
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Appendix: Definitions

Supportive Home Care in IRIS

SHC services in IRIS are comprised of supports or tasks, such as:

- Companion or attendant supports necessary for participant safety at home and in the community. This may include observation or indirect assistance with the following:
  - Verification of appropriate self-administration of medications
  - Meal preparation
  - Bill payment
  - Communication
  - Schedule and/or appointments attendance
  - Completion of activities detailed in occupational or physical therapy treatment plans
  - Arrangement and/or usage of transportation
  - Personal assistance in non-employment related community activities

Supportive Home Care in IRIS (cont.)

SHC services in IRIS are comprised of supports or tasks, such as (continued):

- Chore services that assist the participant to maintain their home environment in a clean, sanitary, and safe manner.
  - Intermittent major household tasks that must be performed seasonally or in response to some natural or other periodic event are also covered.
- Routine care services that perform direct care services, such as physical assistance or personal care.
  - Personal care activities may not comprise the entirety of this service category. When personal care is available to the participant through the Medicaid State Plan, it must be utilized prior to the authorization of any personal care under this service category.

Provider-Controlled Setting

- A provider-controlled setting is a setting in which participants who are not related to the provider or operator reside and receive support and services above the level of room and board, and either:
  - The provider has a direct or indirect financial relationship with the property owner but does not lease or own the property.
  - The property owner or provider has influence over which service provider the participant uses.
  - The provider has influence over whether a participant is accepted for residence.
  - The provider holds the lease or title to the home in which the participant resides.
- Provider-controlled settings must be certified or licensed according to their setting and service provision.

Provider-Controlled Setting (cont.)

- Provider-controlled settings that act as providers of residential services are excluded from separate support services.
  - All support-related services should be included in the provider's rate under the correct residential service category.

Home and Community Based Services (HCBS) Criteria

Individuals have the right to:

- **Experience full access to the community**. This includes chances to seek employment and work in integrated settings, take part in community life, control personal resources, and get services in the community. They get access to the same degree as people not getting Medicaid HCBS.
- **Decide where they receive services**. Options include non-disability-specific locations. Their long-term care person-centered service and support plan provides options based on their needs, preferences, and resources.
- **Be treated with dignity and respect.** They also have the right to privacy and freedom from threat and restraint.

HCBS Criteria

Individuals have the right to (continued):

- **Live with independence.** They are encouraged to make their own choices about life, daily activities, friendship, and places they visit.
- **Choose services and supports**. They also choose who provides them.

Licensed AFH

Adult family home (AFH) means one of the following and does not include a place that is specified in sub. (1g) (a) to (d), (f), or (g):

- A private residence to which all of the following apply:
  - Care and maintenance above the level of room and board but not including nursing care are provided in the private residence by the care provider whose primary domicile is this residence for 3 or 4 adults, or more adults if all of the adults are siblings, each of whom has a developmental disability, as defined in s. 51.01 (5), or, if the residence is licensed as a foster home, care and maintenance are provided to children, the combined total of adults and children so served being no more than 4, or more adults or children if all of the adults or all of the children are siblings.

Licensed AFH (cont.)

- A private residence to which all of the following apply (continued):
  - The private residence was licensed under s. 48.62 as a home for the care of the adults specified in subd. 1. at least 12 months before any of the adults attained 18 years of age.
- A place where 3 or 4 adults who are not related to the operator reside and receive care, treatment or services that are above the level of room and board and that may include up to 7 hours per week of nursing care per resident.

[Wis. State Statute §50.01]

Certified AFH

- Corporate AFH
  - A provider-controlled setting, or a provider-owned or operated residence where one or two adult residents reside and received support and services above 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 must reside in the residence.
- Owner operated AFH
  - A primary residence of the owner who provides AFH services and supports above the level of room and board to one or two adult residents.