



Access to Personal Funds and Resources in Adult Long-Term Care Residential Settings Frequently Asked Questions (FAQs)

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The Wisconsin Department of Health Services (DHS) must ensure residential providers meet home and community-based services (HCBS) settings requirements and conducts reviews of Wisconsin's Medicaid-funded long-term care residential settings for mandatory compliance.

In the process of these reviews, DHS received numerous questions concerning requirements related to access to personal funds and resources. These FAQs provide guidance to residential providers concerning the requirement in accordance with 42 C.F.R., Part 441.

The intent of the HCBS settings rule is to ensure that each HCBS residential setting provides full integration and access of its residents to the greater community. This integration and access includes 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.

Elements relevant to control of personal resources include:

- Whether an individual has a checking or savings account or other means to control his or her funds.
- Whether an individual has access to his or her funds.
- Clear assurance that no individual residing in an HCBS residential setting is required to sign over his or her paycheck to the residential provider.

Frequently Asked Questions

What is the definition of “readily available”? If resident funds are securely stored at a location outside of the resident’s HCBS living setting, is there a specified timeframe within which a residential provider must obtain and provide the resident’s funds when requested?

Providers must support the ability of residents to have reasonable access to their personal funds and resources. Generally, residents must be able to access their personal funds and resources to the extent of their functional capability, in a manner of their choosing, and at times agreed upon between the provider and the resident and his or her legal representative, as applicable.

Integral to discussions with the resident about his or her lease, service, or admission agreement, the provider must offer options to each resident that allow access to his or her personal funds and resources in an efficient, timely, and reasonable manner. Options may include:

- Identifying ways to support a resident’s ability to manage his or her own funds (for example, a resident personally purchases a safe or lockbox to keep in his or her room).
- Offering a **safe place** within the residential setting where residents may keep their personal funds and resources with access provided at specified times convenient for residents.
- Offering a resident trust account.
- Assisting residents to have their own bank account at a local community bank.

The residential provider’s individual or corporate policy must clearly define the **access to funds** options. The provider must explain the available options to each resident and his or her legal representative, as applicable, during the review and signature of the resident lease, service, or admission agreement. In addition, the resident lease, service, or admission agreement must provide each resident with the option to change the selected method for accessing his or her funds with **sufficient notice** to the provider. The provider’s individual or corporate policy and the resident lease, service, or admission agreement must clearly define sufficient notice.

If a resident chooses to have a trust account or to keep his or her funds in a safe place onsite, the resident lease, service, or admission agreement must clearly identify the time parameters, if any, regarding when a resident may access his or her funds. DHS recommends that the policy and the lease, service, or admission agreement also specify the parameters for access to funds during evening or weekend hours.

A resident must sign a statement within or attached to the lease, service, or admission agreement acknowledging his or her receipt of information about the available options for resident access to funds, the hours of the week that the funds may be accessed (as applicable), and that he or she has the right to obtain funds from other sources (for example, banks, ATMs) when the funds cannot be accessed within their living setting. A copy of the signed lease, service, or admission agreement must be maintained with the resident’s individual service plan (ISP) and member-centered plan (MCP).

If time parameters for access to funds are identified, providers are strongly encouraged to support opportunities to assist residents in learning money management skills and planning for the funds they will need from day-to-day, week-to-week, or month-to-month. These practical skills can support residents’ increased independence as active participants within typical communities. When applicable, such learning opportunities should be an integral component of the resident’s ISP and MCP.

If a resident has his or her own bank account, can the residential provider request permission to have access to these accounts?

No, not as a general practice. However, providers must obtain written permission for access to the account if provider access to a resident’s bank account is a resident’s documented choice within his or her ISP and MCP. This is typically done by signing documentation with the respective financial institution that allows the provider to be a signer on the account. Financial accounting must be clearly and regularly documented and must be available for verification at any time.

If a provider encounters issues related to payments for resident expenses or services, the provider should work with the resident's care management team (inclusive of the resident's legal representative, as applicable) to resolve.

Does a residential provider need to have written policy related to RESIDENT access to funds and personal resources?

Yes. Each residential provider must have an individual or corporate written policy and a resident lease, service, or admission agreement inclusive of resident access to personal funds and resources. The policy and process should be incorporated into the resident's service or admission agreement and his or her ISP and MCP.

The policy and resident lease, service, or admission agreement must address the process by which the provider may store or access any resident funds. The policy and the resident's lease, service, or admission agreement must also address:

- The options for resident storage (locked or unlocked) of their funds once admitted to the setting,
- The guidelines for resident use of funds while living in the setting, and
- The process for return of any resident's secured funds upon discharge from the setting.

If, during the comprehensive assessment, a resident is assessed with physical or mental incapacity to keep or manage his or her personal funds and resources, the assessment and rationale must be clearly documented within the resident's ISP and MCP, as applicable, along with the name and contact information of the resident's legal representative.

Does a residential provider need to have a written policy related to STAFF access to residents' personal funds and resources?

Yes. Each residential provider must have an individual or corporate written policy and resident lease, service, or admission agreement that details which staff has access to residents' personal funds and resources. The policy and lease, service, or admission agreement should state that the setting's staff will access a resident's funds or personal resources **only** under circumstances agreed upon with the resident and his or her legal representative, as applicable.

The policy and resident lease, service, or admission agreement must indicate:

- Who has access to the resident's personal funds and resources,
- How each occurrence of staff access to a resident's personal funds and resources and use of the funds will be documented, and
- How compliance with the policy and resident lease, service, or admission agreement will be maintained (such as how and when staff will be trained about the setting's **access to funds** policy and how staff access to and use of funds will be monitored).

At any time, settings must be prepared to provide a copy of its policy and resident lease, service, or admission agreement, a statement of how compliance with the policy is being or will be maintained, and documentation of completed staff training.

What should a residential provider do when a resident cannot manage personal funds?

A resident retains the right to keep personal funds and resources in his or her own living unit even if the resident is prone to misplacing or losing personal funds or resources. To manage these situations, the provider should consult with the resident and his or her legal representative (as applicable), and his or her care management team. The setting may incorporate a procedure into the resident's ISP and MCP, as applicable, to hold the personal funds/resources in a safe place so that the resident can then access his or her personal funds or resources on request.

Any exception to the HCBS settings rule, including circumstances that prevent a resident from accessing his or her personal funds and resources, **must** be specific to the resident's needs (as assessed in their comprehensive assessment; cannot merely be based on the resident's diagnosis) and **must** be justified and documented in the resident's ISP and MCP, as applicable. Documentation of any exception to the HCBS settings rule must be available for verification at the residential setting at any time.

What about access to funds in emergency situations?

The setting's individual or corporate policy concerning resident access to funds must address resident access to funds in emergency situations.

What should a residential provider do if it could be unsafe for a resident to manage personal funds?

Based on the HCBS settings rule, DHS determined that providers must permit residents to obtain, store, and manage their own personal funds and resources. It is recognized, however, that the use and management of personal funds and resources may not be appropriate or safe for an individual resident due to his or her needs or functional capacities.

Any exception to the HCBS settings rule, including circumstances that prevent a resident from accessing his or her personal funds and resources, **must** be specific to the resident's needs (as determined through their comprehensive assessment; cannot merely be based on the resident's diagnosis) and **must** be justified and documented in the resident's ISP and MCP, as applicable. Documentation of any exception to the HCBS settings rule must be available for verification at the residential setting at any time.

What are the main points to know about an exception to the HCBS settings rule?

Any exception to the HCBS settings rule **must** be specific to the resident's needs (as determined through their comprehensive assessment; cannot merely be based on the resident's diagnosis, functional capabilities, or that the resident is a member of the provider's family) and **must** be documented in the resident's ISP and MCP, as applicable. Documentation of any exception to the HCBS settings rule must be available for verification at the residential setting at any time.

What are the consequences for residential providers who do not ensure resident access to personal funds and resources?

Compliance with the federal HCBS rule is mandatory for providers to be eligible for reimbursement for Medicaid home and community-based services (HCBS). To achieve compliance, all waiver-funded residential providers must ensure residents’ access to their personal funds and resources. As part of the HCBS compliance process, all residential providers must provide a remediation plan to correct any identified deficiencies.

Noncompliance means that waiver agencies cannot reimburse a provider for services to Medicaid waiver participants. DHS will inform the agencies responsible for any Medicaid waiver participant living in a noncompliant setting. The agency will contact the provider to address the next steps, which could include relocation of Medicaid waiver participants living in the provider’s setting.

What is the remediation process for residential providers with more than one residential location?

A corporate remediation plan to ensure residents’ access to their personal funds and resources policy is acceptable for providers with more than one residential location. Once the provider implements a remediation plan, evidence or documentation of compliance must be submitted to DHS.

What evidence does a residential provider need to submit to demonstrate that resident access to personal funds and resources is ensured?

At a minimum, the provider must submit a copy of the setting’s individual or corporate policy on resident access to personal funds and resources along with documentation of staff training concerning the policy.

For additional questions regarding HCBS setting requirements related to resident access to personal funds and resources, call the HCBS settings staff at 877-498-9525, or send an email to dhshcbssettings@dhs.wisconsin.gov.