

 **Department of Health Services** 

Resolve

May 12, 2015
Bureau of Assisted Living and
Bureau of Managed Care



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Working together to *Resolve* some common issues and concerns that exist throughout the assisted living provider community.

A partnership of these organizations:

- Bureau of Assisted Living (BAL)
- Bureau of Managed Care (BMC, formerly OFCE)
- LeadingAge Wisconsin
- Wisconsin Assisted Living Association
- Wisconsin Center for Assisted Living
- Residential Services Association of Wisconsin
- **AND MOST IMPORTANT – YOU!**

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Agenda

- 9:00 a.m. – 10:00 a.m. Incident Reports -- Assisted Living**
Alfred Johnson, Director, Bureau of Assisted Living
- 10:00 a.m. – 10:30 a.m. -- Incident Reports – Family Care**
Judy Stych, Bureau of Managed Care
- 10:30 a.m. – 11:00 a.m. -- CMS Home and Community Based Settings Rule**
Diane Poole, Bureau of Managed Care
- 11:00 a.m. – 11:15 a.m. -- BREAK**
- 11:15 a.m. – 11:45 p.m. -- Residential Settings Transition to Compliance with Home and Community-Based Services Regulations**
Gail Propsom, Bureau of Managed Care
- 11:45 a.m. – 12:15 p.m. – Non-Residential Settings Transition to Compliance with Home and Community-Based Services Regulations**
Jody Brassfield, IRIS Manager
Kari Engelke, IRIS Quality Lead
- 12:15 p.m. – 12:30 p.m. Question and Answer Session**

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Incident Reports – Assisted Living

Alfred Johnson, Director
Bureau of Assisted Living

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Introduction

You will learn:

- What needs to be reported to the Bureau of Assisted Living
- How to report to the Bureau of Assisted Living
- How the Bureau of Assisted Living triages Self-reports

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BAL self report process is consistent with Bureau's vision

- Maintains reasonable, efficient and consistent system of regulation
- Encourages compliance in effective licensing and certification processes
- Maintains accountability
- Protects public health and safety
- Fosters quality of life
- Promotes provider responsibility
- Supports consumer awareness, responsibility and satisfaction
- Protects vulnerable adults

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Overview

- Assisted living communities are required to report certain incidents to the Department under Wisc. Stats. Chapter 50, Wisc. Admin. Code HFS 83, Wisc. Admin. Code HFS 88, and Wisc. Admin. Code HFS 13. Providers may also self-report incidents or situations that do not require reporting by regulation.
- It is important that providers include sufficient information for department review in conjunction with these reports.

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Sample Self -Report

In a Adult Family Home

- During lunch a resident cuts his hand
- The wound is long and deep
- The resident is sent to the emergency room where he receives stitches. He returns by dinner time (5pm).

Is this required to be reported to the Bureau of Assisted Living?

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Self-Report Regulations

Death Reporting	Investigating Caregiver Misconduct	Resident Missing	Law Enforcement	Incident or Accident
<ul style="list-style-type: none"> • DHS 83.12(1)(a) • DHS 83.12(1)(b) • DHS 83.12(1)(c) • DHS 88.03(5)(e)1 • DHS 88.03(5)(e)2 	<ul style="list-style-type: none"> • DHS 83.12(2)(a) • DHS 83.12(2)(a)2 • DHS 83.12(2)(b) • DHS 83.12(2)(c) • DHS 83.12(3)(b) • DHS 13.05(3)(a) 	<ul style="list-style-type: none"> • DHS 83.12(4)(a) • DHS 88.03(5)(e)1 	<ul style="list-style-type: none"> • DHS 83.12(4)(b) 	<ul style="list-style-type: none"> • DHS 83.12(4)(c) • DHS 88.03(5)(e)1

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Self-Report Regulations

Catastrophe or Fire or Evacuation	Facility Closing/CHOW	Change in Service	Change in Household Members	Pending Charge
<ul style="list-style-type: none"> • DHS 83.12(4)(d) • DHS 83.12(4)(e) • DHS 83.12(4)(f) • DHS 88.03(5)(d) 	<ul style="list-style-type: none"> • DHS 83.11(1) • DHS 83.10(1)(a) • DHS 83.10(2)(a) • DHS 83.10(3)(b) 1-3 • DHS 89.54 	<ul style="list-style-type: none"> • DHS 88.03(5)(a) • DHS 88.04(2)(c) 	<ul style="list-style-type: none"> • DHS 88.03(5)(b) 	<ul style="list-style-type: none"> • DHS 88.03(5)(c)

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Requirements to Self Report

- Caregiver misconduct
- Death related to the use of physical restraint or a psychotropic medication, or there is reasonable cause to believe that the death was a suicide
- Serious injury requiring hospital admission or emergency room treatment
- Resident missing
- Fire or natural catastrophe resulting in significant damage to the facility
- Police are called when incidents which seriously jeopardize the health, safety or welfare of residents or staff
- Others

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Self Report Determinations

- Schedule an unannounced visit to the facility to review concerns identified in the report; or
- If the self-report does not warrant an on-site review based on established criteria, but indicates that the facility may need technical assistance, report will be placed in the facility file for review during the next visit to facility or
- Place in facility file as information only.

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Schedule onsite visit

- Serious harm or potential for harm to consumers
- Negative impact on the consumer(s)
- The facility's compliance history
- The facility's investigation and reporting history
- A trend in reports received (for example, numerous falls, medication errors, etc.)

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Sample Self -Report

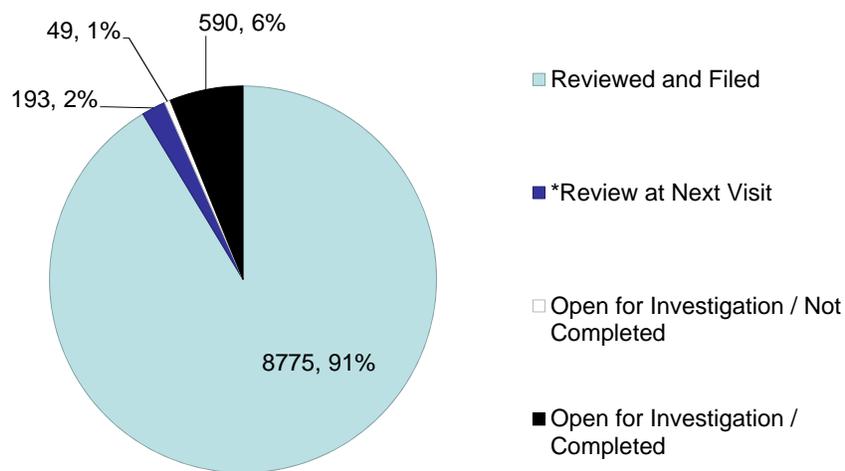
- In a RCAC,
 - A competent resident was admitted to the RCAC two weeks ago.
 - Today the resident informs the staff during breakfast (9:00 a.m.) that her rings, watch and necklace is missing. She believes someone has stolen them from her apartment.
 - The facility starts its' investigation today.
 - After 2 days the RCAC confirms that someone (not sure who at this time) has taken the items from the resident's apartment.
 - The investigation continues.
- Is this required to be reported to the Bureau of Assisted Living? 14

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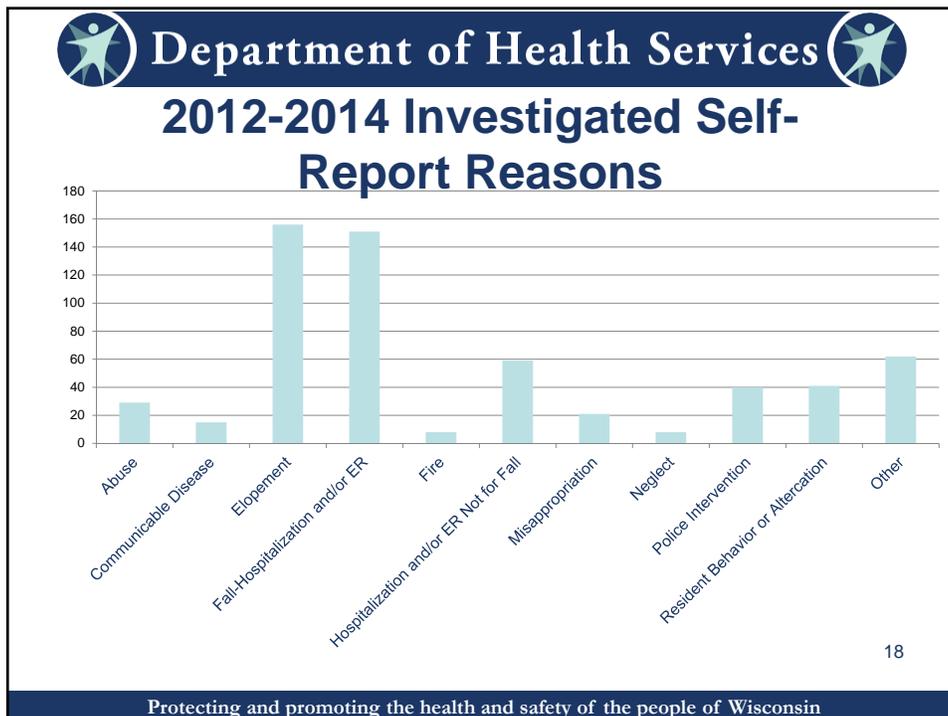
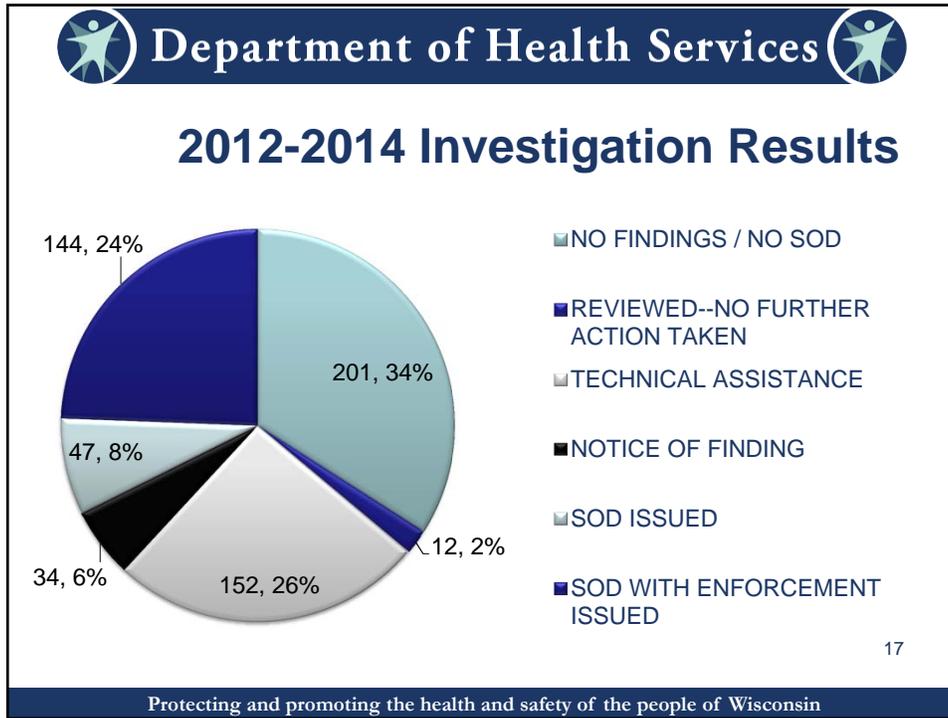
Assisted Living Self-Reports Data

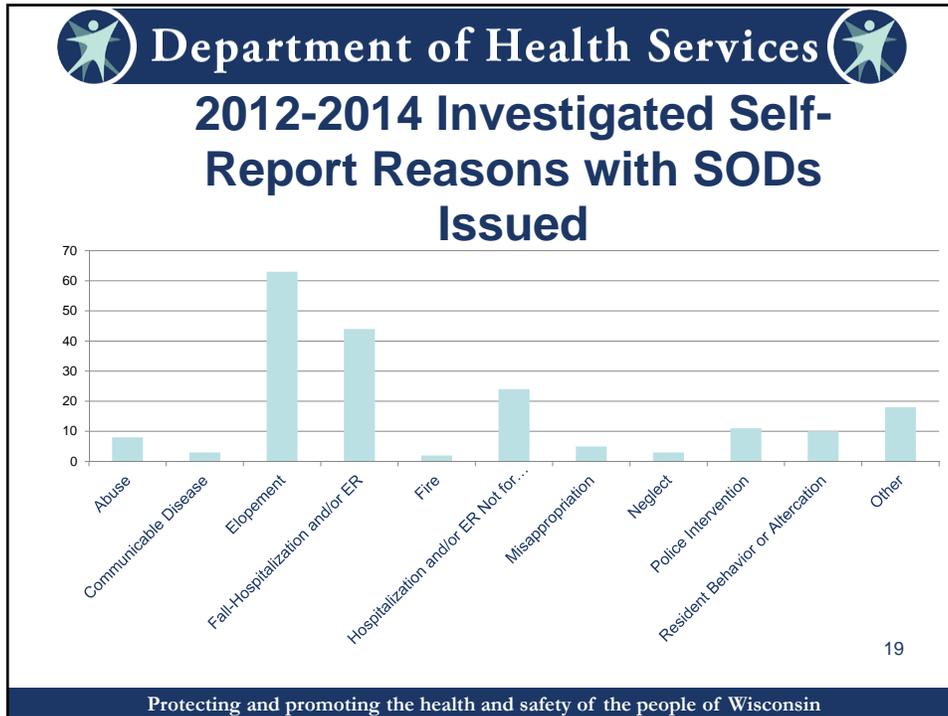
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2012-2014 Self-Reports



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-
- ## Self Report Reason Correlation to SOD Citations
- Abuse
 - AFH
 - 88.10(3)(m) FREEDOM FROM ABUSE
 - CBRF
 - 83.32(3)(d) RIGHTS OF RESIDENTS: FREE OF MISTREATMENT
 - 83.15(3)(a) ADMINISTRATOR SHALL SUPERVISE DAILY OPERATION
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Self Report Reason Correlation to SOD Citations

- Communicable Disease
 - CBRF
 - 83.39(3) HAND WASHING
- Fire
 - AFH
 - 88.06(3)(c) ASSESSMENT IDENTIFY NEEDS & ABILITIES
 - CBRF
 - 83.42(1) RESIDENT RECORD MAINTAINED
 - 83.59(4)(f) DELAYED EGRESS: DEPARTMENT APPROVAL

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Self Report Reason Correlation to SOD Citations

- Elopement
 - AFH
 - 88.10(3)(p) PROMPT AND ADEQUATE TREATMENT
 - 89.23(3)(d) SERVICES
 - CBRF
 - 83.38(1)(b) SUPERVISION
 - 83.42(1) RESIDENT RECORD MAINTAINED
 - RCAC
 - 89.28(6) RISK AGREEMENT
 - 89.23(3)(d) SERVICES

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Self Report Reason Correlation to SOD Citations

- Fall-Hospitalization and/or ER
 - AFH
 - 88.05(3)(a) HOME ENVIRONMENT
 - 88.10(3)(l) SAFE PHYSICAL ENVIRONMENT
 - CBRF
 - 83.35(3)(a) COMPREHENSIVE INDIVIDUALIZED SERVICE PLAN
 - 83.32(3)(i) RIGHTS OF RESIDENTS: PROMPT AND ADEQUATE TREATMENT
 - RCAC
 - 89.23(2)(a)2.c SERVICES

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Self Report Reason Correlation to SOD Citations

- Hospitalization and/or ER Not for Fall
 - AFH
 - 88.06(3)(f) REVIEW OF ISP
 - 88.10(3)(p) PROMPT AND ADEQUATE TREATMENT
 - CBRF
 - 83.38(1)(g) HEALTH MONITORING
 - 83.15(3)(a) ADMINISTRATOR SHALL SUPERVISE DAILY OPERATION

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Self Report Reason Correlation to SOD Citations

- Misappropriation
 - CBRF
 - 83.37(1)(j) PROOF-OF-USE RECORD
 - RCAC
 - 89.34(18) TENANT RIGHTS
- Neglect
 - CBRF
 - 50.09(1)(k) ABUSE AND RESTRAINTS
 - 83.38(1)(b) SUPERVISION

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Self Report Reason Correlation to SOD Citations

- Police Intervention
 - AFH
 - 88.10(3)(p) PROMPT AND ADEQUATE TREATMENT
 - CBRF
 - 83.38(1)(b) SUPERVISION

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Self Report Reason Correlation to SOD Citations

- Resident Behavior or Altercation
 - CBRF
 - 83.35(3)(d) SERVICE PLANS UPDATED ANNUALLY OR ON CHANGES
 - 83.35(1)(c) LISTED AREAS FOR ASSESSMENTS

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Self Report Reason Correlation to SOD Citations

- Other
 - AFH
 - 88.07(2)(a) SERVICES
 - CBRF
 - 83.38(1)(b) SUPERVISION
 - 83.32(3)(i) RIGHTS OF RESIDENTS: PROMPT AND ADEQUATE TREATMENT
 - 83.32(3)(h) RIGHTS OF RESIDENTS: TO RECEIVE MEDICATION
 - RCAC
 - 89.23(3)(d) SERVICES

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Where to Get More Information

- Bureau of Assisted Living Regional Office Contacts
 - <https://www.dhs.wisconsin.gov/dqa/bal-regionalmap.htm>
- Alfred C. Johnson, Director
 - alfred.johnson@wi.gov
- Assisted Living Resources
 - <https://www.dhs.wisconsin.gov/regulations/assisted-living/resources.htm>

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Incident Reports – Family Care

Judy Stych
Bureau of Managed Care

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Incident Management System: Definition

A system which manages incidents at the member and provider levels and includes the activities of incident discovery, report, response, root cause investigation, remediation, and data collection and analysis in order to:

- Ensure member health and safety
- Reduce member incident risk(s)
- Enable development of strategies to prevent future incident occurrences.

Reference: 2015 Family Care Contract, Article I, p. 11

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Supporting a Culture of Member Health and Safety



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Managed Care Organization (MCO) Incident Data Reporting to Family Care

Detail Field Full Name	Detail Description	Required/ Situational (Y,N,S)	Overlap with Restrictive Measures (Y,N)	Companion Information
Incident ID	Each incident must be uniquely identified. System generated ID suggested.	Y	Y	
Record ID	Unique ID assigned by the submitting organization to uniquely identify the record within their organization.	Y	Y	Several records can pertain to an incident.
Initial or updated report	Is the record the original submittal of the incident or an update to a previously submitted incident?	Y		
Last updated date	The date the incident report was last updated. Cannot match a previously submitted incident ID and updated date combination.	Y		
Member ID	Unique Member identifier. Also referred to as the MCI, Member ID, or Medicaid ID	Y	Y	

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Reportable Incident Categories Family Care (FC)

- Abuse (physical, sexual, emotional, treatment without consent, unreasonable confinement or restraint)
- Neglect
- Self-neglect
- Financial exploitation
- Unplanned or unapproved use of restraints (restrictive measures)

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Reportable Incident Categories FC (cont.)

- Unplanned or unapproved use of isolation/seclusion
- Death
- Missing person
- Any unplanned or unapproved involvement of law enforcement
- Medication errors
- Falls

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Questions?

- Questions about the Family Care Incident Management System can be directed to:
DHSOFCE@wisconsin.gov
- Please indicate "Family Care Incident Management System" in the subject line

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Centers for Medicare and Medicaid Services (CMS) Home and Community Based Services (HCBS) Setting Rule

Diane Poole
Bureau of Managed Care

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**Background
HCBS Settings Rule**

- Effective 3/17/14
- The Rule had a two year public comment period
- States have until 3/17/19 to come into compliance with the settings provisions; other provisions required immediate compliance

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Background HCBS Settings Rule (cont.)

- Each waiver program had to submit a transition plan to CMS; and the State had to submit a statewide transition plan encompassing all waiver programs.
- All transition plans had a public comment period; Family Care received 2,934 comments. Ninety-five percent were in response to the Rule and not in response to the transition plan itself.

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CMS Stated Purpose of Rule

- Individuals receiving waiver services will have full access to the benefits of community living and the opportunity to receive services in the most integrated setting appropriate.
- Assure waiver services are delivered in home and community-based settings.

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Residential Waiver Services Most Affected by the Rule

- Residential Care Apartment Complexes (RCACs)
- Adults Family Homes (1-2 Bed and 3-4 Bed)
- Community-Based Residential Facilities (CBRFs)

Note: Nursing Homes are not a waiver service and are not affected by the Rule.

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Non-Residential Waiver Services Most Affected by the Rule

- Adult Day Care Centers
- Prevocational Services (such as those provided by sheltered workshops, etc.)
- Day Habilitation Services

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Division of Long Term Care (DLTC) Programs Affected

- Family Care
- IRIS
- CIP/COP
- Children's Waivers

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CMS Definition of Home & Community-Based Setting

- Integrated in and supports access to the greater community.
- Provides opportunities to seek employment and work in competitive integrated settings, engage in community life, and to control personal resources.
- Ensures the individual receives services in the community to the same degree of access as individuals not receiving Medicaid HCBS.

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CMS Definition of Home and Community-Based Setting (cont.)

- Selected by the individual from among settings options, including non-disability specific settings and an option for a private unit in a residential setting (dependent on the individual's resources).
- Ensures an individual's rights of privacy, dignity, respect and freedom from coercion and restraint.

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CMS Definition of Home and Community-Based Setting (cont.)

- Optimizes individual initiative, autonomy, and independence in making life choices.
- Facilitates individual choice regarding services and supports, and who provides them.

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Residential Settings (Provider Owned or Controlled) - Additional Requirements

- Must be owned, rented or occupied under a legally enforceable agreement which provides the individual with the same responsibilities/protections from eviction as tenants under applicable landlord tenant laws.

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Residential Settings - Additional Requirements (cont.)

- If landlord tenant laws do not apply, a residency agreement or other written agreement is in place providing protections to address eviction and appeals processes comparable to those provided under the landlord tenant laws.

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Residential Settings - Additional Requirements (cont.)

- Each individual has privacy in their sleeping or living unit including:
 - Lockable entrance doors, with the individual and only appropriate staff having keys.
 - Choice of roommates if sharing units.
 - Freedom to furnish and decorate sleeping or living units within the limits of the lease or other agreement.

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Residential Settings - Additional Requirements (cont.)

- Freedom and support to control their schedules and activities.
- Access to food at any time.
- Visitors at any time.
- Setting is physically accessible to the individual.

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Modifications to These Requirements

Must Be:

- Supported by specific assessed need
- Justified in the person-centered service plan
- Documented in the person-centered service plan (the Rule specifies what specifically must be documented)

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Settings That Are NOT Home and Community-Based

- Nursing Facilities
- Institutions for Mental Diseases (IMD)
- Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID)
- Hospitals

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CMS Presumes These Settings Are Not Home and Community-Based

- Settings in a facility providing inpatient treatment (both public and private).
- Settings on the grounds of, or adjacent to, a public institution.
- Settings with the effect of isolating individuals from the broader community of individuals not receiving Medicaid HCBS.

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Heightened CMS Scrutiny

- States submit evidence to the Secretary of the Department of Health and Human Services (DHHS) demonstrating that the setting does have the qualities of a HCBS setting and NOT the qualities of an institution.
- The DHHS Secretary determines, based on a heightened scrutiny review of the evidence, if the setting meets the requirements for HCBS settings and does NOT have the qualities of an institution.

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Person-Centered Planning Process

- Be driven by the individual.
- Include people chosen by the individual.
- Provide necessary information and support to the individual to ensure that the individual directs the process to the extent possible.
- Be timely and occur at times/locations of convenience to the individual.

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Person-Centered Planning Process (cont.)

- Reflect cultural considerations/use plain language.
- Include strategies for solving disagreements.
- Offer choices to the individual regarding services and supports the individual receives and from whom.
- Provide method to request updates to the person-centered plan.

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Person-Centered Plan Documentation

- Clinical and support needs
- Goals and desired outcomes
- Individual's strengths and preferences for delivery of services and supports
- Services and supports (paid and unpaid), the providers of those services and supports, and services the individual elects to self-direct

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Person-Centered Plan Documentation (cont.)

- Risk factors and measures to minimize them, including back up plans when needed
- Setting is chosen by the individual and is integrated in and supports full access to the greater community
- Alternative home and community-based settings that were considered by the individual

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Person-Centered Plan Documentation (cont.)

- Opportunities to seek employment and work in competitive integrated settings
- Opportunity to engage in community life, control personal resources, and receive services in the community
- Individuals important in supporting the individual

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Person-Centered Plan Documentation (cont.)

- Individuals and/or entity responsible for monitoring the plan;
- Informed consent of the individual in writing;
- Signatures of all individuals and providers responsible in implementing the plan; and
- Distributed to the individual and others involved in the plan.

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Person-Centered Plan

Other Requirements:

- Plain language and understandable to the individual.
- Must be reviewed, and revised upon reassessment of functional need as required every 12 months, when the individual's circumstances or needs change significantly, or at the request of the individual.

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Conflict Free Case Management

- Providers of HCBS for the individual, or those who have an interest in, or are employed by, a provider of HCBS for the individual, cannot provide case management or develop the person-centered plan. The only exception to this is if the provider is the only willing and qualified provider of case management in the geographic service area.

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Link to the CMS Rule and Other CMS Informational Materials

<http://www.medicaid.gov/HCBS>

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Residential Settings Transition to Compliance with Home and Community-Based Services (HCBS) Regulations

Gail Propsom
Bureau of Managed Care

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Residential Provider Assessment Activities

- Provider self-assessment
- Validation of the self-assessment response
- Implementation of a remediation process for providers
- Relocation of waiver participants from non-compliant settings
- On-going monitoring and re-evaluation of settings by waiver agencies

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Residential Self-Assessment Tool

- Based on CMS guidance.
- Focused on those things within the purview of the residential provider, not the responsibilities of the waiver agency under person centered planning.

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Residential Self-Assessment Process

- Roughly 5,400 individual residential settings
- Introductory email and information sheet sent on April 15, 2015
- Sample of providers were asked to complete the on-line assessment tool in advance of the full release

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Residential Self-Assessment Process (cont.)

- The full release--both email and US mail--during week of April 27, 2015
- The online tool must be completed and submitted by May 25, 2015

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Next Steps

- On-site validation activity will occur over next 12 months (spring of 2016).
- Providers who need remediation will submit plans in June 2016 and will have one year to implement those plans.
- Participants living in non-compliant settings will select a new living setting from choices provided by the waiver agency. Moves must occur no later than September 30, 2018.

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For More Information

Provider Self-Assessment Questions:

1-877-498-9525

HCBS Rule Questions:

DHSOFCE@wisconsin.gov

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Non-Residential Settings Transition to Compliance with Home and Community-Based Services (HCBS) Regulations

Jody Brassfield, IRIS Manager
Kari Engelke, IRIS Quality Lead

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Objectives

- Overview of HCBS transition process
- Self-Assessment role in HCBS transition process
- Self-Assessment overview
- Answer questions related to HCBS transition process

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Overview of HCBS Transition Process

Transition steps include:

- Self-assessments
- Site visits
- Policy developments
- Education of stakeholders and providers on new policy
- Determination of compliance
- Remediation
- Ongoing monitoring

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Role of the Non-Residential Self-Assessment in HCBS Transition Process

- Self-assessments will not singularly determine compliance or non-compliance.
- Self-assessments will collect factual information from providers regarding current business practices.
 - Examples

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Non-Residential Self-Assessment Overview

- Self-assessment content originated from CMS questions.
- Overview of self-assessment tool
- Logistics and timeline of implementation of Non-Residential Settings Self-Assessment
 - May 2015: Finalize the tool post-public comment and electronically distribute to providers for completion.
 - November 2015: Self-assessment will end.
 - 2016: Site visits

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Office of IRIS Management Contacts

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(608) 267-7841

Kari.Engelke@Wisconsin.gov

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Additional Questions?

Please indicate one of the titles below in the subject line and send to the address indicated

- Cindy.OConnell@dhs.wisconsin.gov
 - Assisted Living Self Reports
- DHSOFCE@wisconsin.gov
 - Family Care Incident Management
 - HCBS Rule
 - Residential Provider Self Assessment
- DHSIRIS@wisconsin.gov
 - Non-residential Provider Self Assessment

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