



Modification of Rights

HCBS Settings Requirement

As a provider you must ensure all modifications to individual rights are implemented in the least restrictive manner necessary to protect the person while providing support to reduce or eliminate the need for the modification in the most integrated setting and inclusive manner.

You are required to document and provide to the support coordinator the following for inclusion in the person-centered service plan. You should also include this information in the plan for supports on the Safety Restrictions form:

- Positive interventions and supports used prior to any modifications to an individual's HCBS right
- Less intrusive methods of meeting the need that have been tried but did not work
- Regular collection and review of data to measure the ongoing effectiveness of the modification
- Established time limits for periodic reviews to determine if the modification is still necessary or can be terminated
- An assurance that interventions and supports will cause no harm to the person

Prior to implementing a modification of a person's rights, the support coordinator must fully inform the person of the assessed need for the modification and how it will be implemented. The support coordinator should discuss modification(s) with the person at least annually (and more frequently as necessary) so providers, the person, and his or her person-centered planning team can determine if the modification is still needed or if revisions need to be made.

Best practice suggestions

- Have and follow clear policies and procedures that outline how and when to pursue approval for a modification.
- Maintain an open line of communication with the person and his or her guardian, when applicable.

Examples

- Alice has a history of wandering. She has autism, is non-verbal and cannot safely navigate her neighborhood or cross the busy intersection close to her home, so it can be dangerous for her to freely come and go from her group home. The staff at the home documented in Alice's support plan that she recently left the home unattended and could not find her way back. Alice's support coordinator and her person-centered planning team have identified wandering as a risk to Alice's safety and she must therefore only leave the home with appropriate support. The team assists Alice in understanding and following that modification.
- Jack has Prader-Willi syndrome, a condition that causes him to ingest large quantities of food. He and his physician are working together to manage the condition. In the meantime, Jack and his guardian have worked with his support coordinator and provider to determine that limiting his access to food items is a necessary modification to an HCBS right that will help him to remain healthy. Jack's sponsored residential services provider will help Jack build his skill set to work toward the ability to manage his food intake independently.
- Tony was recently diagnosed with severe depression and has exhibited self-harming behaviors. He, his provider, his support coordinator and his person-centered planning team have agreed that having a lockable bedroom door puts Tony at risk for serious injury or death if he engages in self-harm and a staff person is



Modification of Rights

not able to reach him immediately. Tony, along with his support team, has determined the provider will temporarily remove the lock from the door and implement a regular, three month schedule of staff checking on him while Tony and his psychiatrist work to identify a balance of medications that fits his needs. The provider, Tony, and his support coordinator will revisit the issue in three months to determine if they can reduce staff checks and add the lock back onto his bedroom door.

Note: In all of these examples, the provider must work with the person, his/her support coordinator and the person-centered planning team to address all requirements and steps necessary to implement a modification to a person's rights.

Additional guidance

How do I request a modification for a person I support?

If you are a residential services provider and have identified a health and safety risk to a person you support, you need to collect documentation of the risk and contact the person's support coordinator. The support coordinator will work with the person, you and other members of the person-centered planning team to ensure the appropriate information is documented on the person's support plan and the person has been informed and consented to the modification.

Red Flags 🚩 -- Practices to Avoid

- 🚩 Modifying a person's rights because it is convenient for the provider or guardian
- 🚩 Implementing a modification without consent of the person and his/her guardian (when applicable)
- 🚩 Implementing a modification for all people living in a setting, regardless of their individualized needs and abilities.
- 🚩 Modifying the DBHDS Human Rights or an individual's HCBS rights without notifying the HR advocates