

Wisconsin Medicaid Standards for Certified 1-2 Bed Adult Family Homes



**STATE OF WISCONSIN
DEPARTMENT OF HEALTH SERVICES
Division of Medicaid Services**

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1-2 Bed AFH Standards

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I. Introduction

A. Authority and Purpose

Effective March 17, 2014, the federal Centers for Medicare & Medicaid Services (CMS) issued new rules defining “home and community-based” for the purposes of Medicaid reimbursement. Under the new requirements, the Wisconsin Department of Health Services (DHS) must ensure that 1-2 bed adult family home (AFH) providers meet and remain in compliance with the home and community-based services (HCBS) settings requirements.

These standards are issued under the authority of the approved HCBS Waiver programs operated by DHS. These standards are approved by CMS, as well as Wisconsin state and local funding sources administered by DHS that cover and/or fund 1-2 bed AFHs.

The authority for promulgating these standards for use by the funding sources (other than the Medicaid HCBS Waivers) is pursuant to Wis. Stat. § 46.036. This permits DHS to establish standards for services used by DHS and by county governments in the programs covered by the state/county contract. These standards are also issued so that DHS is in compliance with Section 1616(e) of the Social Security Act ([42 U.S.C. 1382e](#)), which requires states to have and publish standards for any residential facility or home where significant numbers of Supplemental Security Income (SSI) recipients reside.

These standards are intended to protect and promote the health, safety, and welfare of people residing in and receiving support, services, and supervision in these settings. Certification pursuant to these standards is required as a condition of reimbursement for all providers included within these standards under Medicaid HCBS Waiver programs and all other funding sources.

B. Applicability

These standards apply to the Wisconsin DHS managed care organizations (MCOs) operating Family Care, Family Care Partnership and PACE programs, the IRIS (Include, Respect, I Self-Direct) program, and the county agencies that certify and serve as placing agencies for AFHs. The standards also apply to AFH sponsors, substitute and/or respite care providers, staff who work in an AFH covered by these standards, as well as the individuals served in the AFH and their guardians, if any.

C. Definitions

1. **Activities of Daily Living (ADL):** Activities relating to the performance of self-care and engaging in leisure or recreational activities. “Self-care” includes dressing, eating, bathing, grooming, toileting, mobility, transferring from one surface to another such as bed-to-chair transfer, object manipulation, ambulation, and rest.
2. **Adult Family Home (AFHs):** An AFH may either be a traditional adult family home or a community care home, both of which are defined in this Article. An AFH is not a respite home.

3. **AFH Service Plan:** The plan that describes the amount, type, manner of delivery and provider of any service that will be provided in and/or by the sponsor, operator, or staff of an AFH.
4. **Applicant:** Any person or sponsoring agency who/that applies for certification as an AFH.
5. **Caregiver:** The sponsor, operator, any staff, or any household members who have regular, direct contact with residents of the AFH, whether or not the caregiver resides in the home. “Regular” means contact that is scheduled, planned, expected, or otherwise periodic. “Direct” means face-to-face physical proximity to a resident.
6. **Care Manager, Case Manager, IRIS Program Representative, or Support and Service Coordinator:** The person who has primary responsibility for arranging, coordinating, managing, and monitoring the needed services and supports received by a resident, including services provided outside of the AFH. Care managers are also responsible for assuring the health, safety and welfare of the program participants/members who are residents of the AFH. (**Note:** Care managers may be members of an interdisciplinary staff team performing the functions listed.)
7. **Certifying Agency:** An agency authorized by these standards or DHS to certify and recertify AFHs according to these standards. Agencies authorized to certify AFHs using these standards are a managed care organization, a county agency, DHS, or approved DHS subcontractors.
8. **Certificate Holder:** The agency or individual proprietor that is serving as the sponsor of and controls the specific community care home that has received approval under these standards and to which a certificate indicating the approval has been issued. The certificate holder employs the operator and all staff who work with the residents of the AFH.
9. **Community Care Home:** A residence controlled (either owned or leased by an entity/agency) and operated by an entity/agency certified to operate the AFH. A residence where one or two adult residents reside and receive support and services above the level of room and board from staff employed by the entity/agency that controls and sponsors the AFH and employs the staff. The staff employed by the agency that sponsors the AFH may or may not reside in the residence.
10. **Conflict of Interest:** A conflict of interest means a situation where a person or entity involved in placement of an individual into an AFH has a direct or indirect interest in or the potential to benefit from that placement decision. Any person, agency, or entity serving as the guardian of an adult and as the potential provider has a conflict of interest under this definition. Under this definition, a conflict of interest includes, but is not limited to, the following:

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- a. The guardian is an employee of the placement or provider agency that provides services to that guardian's/employee's ward.
 - b. The same entity/individual receives funds from the resident and also manages the resident's finances or makes any decisions that result in the agency/entity receiving participant funds, e.g., cost share, room and board payment. Excludes nominal funds given to a sponsor, operator, or staff to finance routine recreational or other community activities.
 - c. The same person/entity is the guardian or another legally established decision-maker and is a compensated service provider.
11. **County Agency:** A county department of social services established under Wis. Stat. § 46.215 or 46.22, a county department of human services established under Wis. Stat. § 46.23, a county department of community programs established under Wis. Stat. § 51.42, a county department of developmental disabilities services established under Wis. Stat. § 51.437, a county department of aging, or the tribal governing body of a federally recognized American Indian tribe or band under Wis. Stat. § 56.075.
12. **Day:** Calendar day unless otherwise specified.
13. **DHS:** The Wisconsin Department of Health Services.
14. **Frail Elder:** A person who is age 65 or older who has a physical disability or irreversible dementia that restricts the individual's ability to perform normal daily tasks, ADLs, IADLs, or that threatens the capacity of the individual to live independently.
15. **Guardian:** As defined in Wis. Stat. § 54.01(10), means a person appointed by a court under Wis. Stat. § 54.10 to manage income and assets, and provide for the essential requirements for the health, safety and personal needs of a minor, an individual found incompetent, or a spendthrift.
16. **Home and Community-Based Services (HCBS):** HCBS are services authorized under an approved Section 1915(c) waiver or other appropriate Medicaid authority to provide long-term support to beneficiaries in their own home or community rather than institutions or other more isolated settings.
17. **Household Member:** Anyone who resides or stays and sleeps in an AFH who is not a resident; this includes the sponsor, operator, and any other person(s) who reside in the house and intend to remain. Come-in staff personnel are not household members.
18. **Informed Consent or Consent:** Written consent voluntarily signed by a resident or prospective resident who is competent and who understands the terms of the consent. Written consent by the resident's or prospective resident's legal guardian without any form of coercion. Temporary oral consent obtained by telephone in accordance with Wis. Admin. Code § DHS 94.0(2m).

19. **Instrumental Activities of Daily Living (IADLs):** Activities relating to the AFH and household management, including preparing meals, shopping and chores, personal housekeeping, using the telephone, managing one's personal finances, using the telephone to access support for health care activities including taking medicine, management of medications and treatments, applying or changing dressings, and/or using a medical device. Instrumental activities of daily living also include activities involving moving about in one's community including transportation for any purpose including accessing and participating in a job; in vocational, recreational, and social activities in the community with other members of the community; arranging and using transportation; and the ability to function at a job site.
20. **Medicaid Waiver Program:** Medicaid HCBS long-term care programs authorized under Section 1915 (c) of the Social Security Act. This includes programs named CIP1, CIP II, CLTSS, COP-W, IRIS, and Family Care (Family Care, Partnership, PACE managed care organizations).
21. **Person-Centered Plan:** This is the prospective client's, member's, or participant's overall plan for services and supports, including services in addition to the AFH. This plan may also include unpaid or informal supports. The name of this plan varies by program. It is referred to as the member-centered plan (in Family Care), the person-centered service plan, or IRIS individual support and service plan.
22. **Non-Ambulatory:** An inability to walk without the use of a wheelchair or other device that assists with mobility and makes prompt evacuation of the home difficult.
23. **Nursing Care:** Services and procedures provided by a registered nurse licensed under Wis. Stat. ch. 441, or which require the direct supervision of a registered nurse licensed under ch. 441.
24. **Operator:** A person who is employed by the community care home's sponsoring entity/agency and who works in and has primary responsibility for the day-to-day operation of a community care home. An operator is responsible for in-home supervision and direction of the work of the home's other staff, for ensuring that the AFH service plans of all residents of the home are being correctly implemented, and for assuring the health, safety and welfare of all residents. An operator is not an off-site area or regional supervisor overseeing more than one home. An operator is positioned on-site and/or accompanies residents of the home to places in the community.
25. **Placing Agency or Placement Agency:** An agency responsible for facilitating the placement of a resident to or in an AFH. Placing agencies are responsible for providing ongoing services, including participant or member monitoring, incident management, and complaint handling. Placing agencies are often the source of funds used to compensate the home for the support and services they provide. Placing

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agencies may be managed care organizations(MCOs); county agencies as specified by Wis. Stat. §§ 46.23 (Department of Human Services), 46.22 (Department of Social Services), 51.42 (Department of Community Programs), and 51.437 (Department of Developmental Disabilities Services); private agencies under contract with any of these entities; or private entities hired by a resident or the resident's guardian to perform these functions. Where there is no placement agency (e.g., in private pay situations), the sponsor or operator of the AFH is responsible for performing the duties of the placement agency.

26. **Primary Care Provider:** A physician who provides primary care to the resident from the first point of contact and takes continuing responsibility for overseeing the resident's overall health care.
27. **Relative:** An individual who is a parent, step-parent, spouse, domestic partner, child, step-child, sibling, grandchild, grandparent, aunt, uncle, niece, or nephew of the AFH sponsor or provider.
28. **Resident:** An adult who resides and intends to remain in the AFH to receive support and services above the level of room and board provided from the sponsor, operator or staff.
29. **Respite Care:** For these standards, respite care has two different meanings; (1) respite care means short-term AFH care provided to one or two additional people who temporarily stay in the AFH requiring expansion of the capacity of an AFH by up to two additional beds; or (2) the provision of relief to an AFH's sponsor by a substitute provider in traditional AFHs.
30. **Respite Home or Respite Care Home:** A home certified for respite care or authorized by a placing agency to provide short-term support and supervision, including room and board. This may be provided to up to four residents for an overnight stay, or a stay greater than 24 hours but not more than 28 days. None of the residents intend to or may remain in that AFH permanently. Because no resident may stay in the respite home permanently, an AFH is not a respite home.
31. **Respite Resident:** An adult who does not permanently reside in an AFH but who is receiving respite care in a certified traditional AFH.
32. **Revocation:** Withdrawing the approval of the AFH's certification during the term of certification for violations of one or more of the terms in these standards or other incident that could affect the health, safety, and welfare of the resident.
33. **Secretary:** "Secretary" refers to the Secretary of the federal Department of Health and Human Services.
34. **Sponsor:** The person, people, or agency that applies for and receives certification as an AFH. The sponsor may also be known as the provider.

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35. **Substitute Provider:** A person designated by the sponsor or operator to temporarily take primary responsibility for the operation of the AFH when the sponsor or operator is temporarily unable or unavailable to provide services, supports, and cares for any reason.
36. **Traditional AFH:** A residence that is the primary domicile of the sponsor or certificate holder that provides services and supports above the level of room and board to one or two adult residents.

II. Exceptions to a Requirement

An AFH, a certifying agency, or a placement agency may apply for an exception to any requirement in these standards unless specifically barred from doing so in this section. The certifying agency may grant the exception to the requirement in these standards unconditionally or grant the exception with conditions if the requested exception meets the requirements of this section.

A. Standards Not Subject to Exception Requests

1. No exceptions will be considered for requirements in Articles I, II, VI.A.2, VII, VIII, X and XI.
2. No exceptions will be considered for any requirements of the federal home and community based settings rules 42 CFR § 441.301(c)(4) and § 441.710.
3. Minimal exceptions will be considered for Articles V.E.2., VI A.1. and 3. Any exception requests for these sections will require DHS approval in addition to certification agency approval prior to implementation.

B. Requirements for an Exception

1. Exceptions must be granted by the certifying agency prior to the implementation of such exception by the AFH, except for Articles V.E.2., VI A.1. and 3., which require DHS approval in addition to certification agency approval prior to implementation;
2. Exceptions must be documented in writing and accompanied with a detailed description of what will be done or provided in lieu of the provision in the standard, how and if the change will impact resident health and safety, and how it relates to the criteria in Article II.D.; why an exception is needed; and that adequately informs the Department of what will occur if the exception is granted.
3. Exceptions must be reported to DHS as described in Article II.F.

C. Deadline for Decision

The certifying agency shall review and render a written decision no more than 30 days after the sponsor, resident, resident's guardian, if applicable, or placing agency has requested the exception. The certifying agency will review the request following the criteria for approval of an exception and determine if the exception is appropriate.

D. Criteria for Approval of an Exception

The criteria for approval of a requested exception used by the certifying agency shall be based on findings that the exception request describes a situation or outcome for which:

1. There is a comparable alternative to the requirement to which the exception is being requested.
2. It will produce equivalent or comparable quality, safety, or other result comparable to what would result if the requirement was enforced.
3. It will not jeopardize the health, safety, or welfare of any participant currently residing in the home or other residents or household members in any significant way.
4. It applies to only the site of that AFH and/or to the particular resident who may be the subject of the exception request.

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E. Conditions

The certifying agency may impose conditions of approval or time limitations on an exception. Under no circumstances shall an exception be in effect longer than the AFH certification. Violation of a condition of approval or a time limitation under which the exception is granted constitutes a violation of these standards. Exceptions shall be specific to the AFH and to the person or people involved, and may not be transferred to other settings or residents.

F. Reporting

Certifying agencies shall report all exception requests and all granted exceptions to DHS on a quarterly basis every year in the template developed by DHS located at <https://www.surveymoz.com/s3/3342555/AFH-Exceptions-v1>. The reporting requirements shall include the following:

1. A description of the exception request, including the sponsors' name and address or community care home name and address in which the exception request is being considered.
2. The section or sections of the standards with which the exception request applies.
3. The certifying agency's decision on the exception request.
4. Rationale behind decision to grant or deny exception request.
5. The certifying agency's plan to monitor and oversee granted exception.
6. The time period the exception is in effect.

DHS may override the decision of the certifying agency to allow or disallow an exception request at its own discretion. DHS will provide rationale to the agency and the AFH if an override is given.

III. Certifying Agency: Qualifications and Responsibility

A. Qualifications

Each certifying agency shall have:

1. **Dedicated Staff Required:** Dedicated staff refers to the people identified by the certifying agency who are assigned to regularly conduct certifications and/or certification studies of prospective or current AFHs and to operate the other elements of the AFH program specified in Article III.B.4. Such staff may be employees of the agency or authorized by a contract to conduct the necessary study of a prospective home or current AFH on behalf of the agency.
2. **Trained Certification Staff**
 - a. **Training Plan**—A written training plan is required that addresses how and when all of the dedicated staff expected to conduct certifications will be trained. The training plan must also detail at what point in training each staff will be put into the field to conduct certifications. The plan shall, at minimum, provide that these staff must receive training in the areas specified in this section prior to commencing such certification studies. This plan may be requested by DHS and may be subject to DHS approval based on the adequacy of the plan in addressing the required subjects.
 - b. **Content of Training Plan**—The plan shall cover how training will be provided in the following subjects:
 - 1) The assisted living/residential service system and the long-term support service system.
 - 2) The standards for 1-2 bed AFHs and all related and referenced standards or administrative rules, including home and community-based setting requirements under 42 C.F.R. § 441.301(c)(4).
 - 3) Current practices and principles, values, service methods, and characteristics involved in the provision of services to individuals with intellectual and developmental disabilities, physical disabilities, elders and people with mental illness.
 - 4) Basic health care practices including assessment practices, common medications and side effects, medication administration, and basic dietary principles and requirements.
 - 5) Behavior management principles, including issues associated with the use of and avoidance of using restrictive measures.
 - 6) Survey and investigative methods and techniques.
 - 7) Interviewing techniques.
 - c. **Ongoing Training**—Provision of training should be ongoing, with staff receiving training on these subjects on a continuous basis so they keep current with the best practices used in this field. Ongoing training shall be addressed in the plan required by Article III.A.2.a.
 - d. **Existing Staff**—Staff who have operated or been employed by or under contract to an AFH program by a qualified certifying agency prior to January 1, 2013, or who have certified homes for at least 12 months are exempt from additional

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training requirements. Staff currently employed for less than one year, and newly hired staff, have one year from their hire date to complete the required training program called for in the agency's training plan.

3. **Documentation:** The certifying agency shall maintain staff-specific documentation on file that each person who conducts certification studies of AFHs has received the requisite training required in these standards, has received a waiver of training, or is exempt under Article III.A.2.d. This training documentation shall be made available upon request to DHS, any auditors, or to placement agencies that provide/provided funding for any of the residents in any of the AFHs certified by this agency.

B. Responsibilities

Each certifying agency will:

1. **Have a defined territory:** Each certifying agency will have a geographic territory defined by the provisions in this section or based on placement needs. Certifying agencies shall certify within their geographical service area (see [Article III.B.5.](#)). DHS is able to certify anywhere in Wisconsin but is obligated to notify the local entity or entities when it does so.
2. **Receive and accept applications:** Receive and accept applications or requests for applications to certify one- or two-person AFHs from any interested and willing prospective AFH provider that applies. Upon receipt of such applications, the certifying agency shall either:
 - a. Certify the applicant in accordance with Article III.B.3. if the certifying agency intends to place a resident in the AFH; or
 - b. If the certifying agency does not intend to place a resident in the AFH at the time of application, decline to certify the applicant and inform the prospective home about the application process, and provide a copy of the current standards by mail (or email if available).
3. **Conduct certifications:** Conduct certification studies of original applicants or applicants for recertification if there are prospective residents that are to be placed in the home or current residents in the home. Certification or recertification is not required if there are no prospective placements in that home by a placement agency for which the certification agency performs certifications. A certification study by the certifying agency involves:
 - a. A review of all application materials submitted by applicant to determine if the materials submitted evidence that the applicant meets the standards.
 - b. When required, a complex on-site survey of the prospective or existing AFH applicant or sponsor to ensure compliance with standards.
 - c. Use of established procedures and professional judgment to determine the level of compliance with all administrative, operational, and physical plant requirements, including quality of care and quality of life provisions.
 - d. Identification and communication about noncompliance when deficiencies are found.

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- e. Determination and execution of the appropriate disposition of the application.
 - f. Documentation of the disposition of the application, including compliance with the requirements of 42 C.F.R. § 441.301(c)(4) if the AFH intends to serve participants in Medicaid home and community-based waivers.
- 4. Other Elements of an AFH Program:** In addition to certification-related activities, the certification agency's role may include the following activities:
- a. Certification program management that includes actions having bearing on a home's certification status. These actions could include revocation of the certification of an existing AFH, decertification of an AFH no longer in use or which no longer meets the standards, denial of initial certification or recertification, or the imposition of conditions of approval or corrective actions.
 - b. Recruitment of homes.
 - c. Assisting placement agencies with the placement of individuals in the AFHs certified by that certification agency.
 - d. Provision or arrangement of training of all personnel in the AFHs as required by these standards or as needed to effectively serve specific individuals or target groups that are/may be placed in the AFH. The latter training will typically be done with the assistance and cooperation of the placement agency.
 - e. Conduct any appeal process required by these standards.
 - f. Monitor AFHs during the period of certification to assure ongoing compliance with these standards.
 - g. Receive, accept, respond, and attempt to resolve complaints from individuals served in the AFH, their friends, family members, guardians, or members of the public regarding an AFH or its sponsor, operator, or staff.
- 5. Enter Into Agreements With Other Agencies:** Certifying agencies shall enter into interagency agreements described in this section.
- a. Interagency agreements with certifying agencies that cover different territories—
An interagency agreement shall be executed when a certifying agency is contemplating certifying a home located outside of its regular territory and inside the territory of another certifying agency. Such an agreement is needed when the placing agency component of the agency places an individual in an AFH inside the territory of another certifying agency. The written agreement is between the certifying agency where the AFH is located, herein referred to as the "home agency," and the agency seeking to certify a home in a territory outside its geographic borders, herein referred to as the "requesting agency." The agreement shall be established prior to the certification of any home, or at the time of renewal of certification if the AFH was certified prior to the date of these standards. The agreement shall:
 - 1) Specify which of the two certifying agencies will be responsible for the certification of the home, recognizing that either agency is considered qualified to certify the home. The agency that certifies the home shall be fully responsible for the initial certification, all renewals, and for the ongoing monitoring of the AFH, unless otherwise agreed to by both parties.

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- 2) Provide copies of the certification materials to the AFH agency if requested by the home agency.
- b. Agreements between certifying agencies—More than one certifying agency may routinely cover the same territory. These agencies perform required certifications for different publicly funded programs. An interagency agreement between all of the agencies that certify homes in overlapping territories may be executed between the agencies. Any agreement must include:
 - 1) A clear statement of agreement identifying which certification agencies will certify which homes. This includes whether any agency will delegate certification to a different agency.
 - 2) A clear statement of care coordination and delegation of tasks between the certifying agencies for the AFHs in the same territory.
 - 3) A clear statement detailing the certification activities and the sharing of documents.
 - 4) A clear statement identifying responsibility for compliance with the requirements under 42 C.F.R. § 441.301(c)(4) if the AFH intends to serve participants within Medicaid home and community-based waivers.
- c. Agreements between placement agencies—A placement agency shall enter into an agreement when it makes a placement in an AFH that is already certified by a different certification agency. Such agreements shall identify:
 - 1) Roles and responsibilities in assuring the AFH continues to meet requirements.
 - 2) Communication protocols between the placing agencies regarding quality concerns of the AFH.

IV. Certification

A. General Requirements

1. No person or agency may operate an AFH and receive reimbursement from any DHS funding source unless a qualified certifying agency determines that the home is in compliance with all requirements of these standards, and the sponsor or agency/entity has received a certificate indicating compliance from a qualified certifying agency.
2. No AFH may be required to be certified by more than one qualified certifying agency if the AFH's certification is current and unconditional. Placement by a second, different agency does not require a second certification. The second placement agency may review the certification documentation.
3. No certifying agency is required to certify a home or recertify an AFH that applies for certification or renewal unless a placement in that AFH is planned. If the certification of a home that has no placements expires, the certifying agency may, at its own discretion, either recertify the AFH or decline to certify the home. If that AFH reappplies, the certifying agency may, at its own discretion, treat the applicant as a new applicant or as a renewal. The certification study for the applicant shall, to the extent possible, be done in a timely way so that a prospective resident can be placed in the AFH when the resident needs placement. The certification study may be delayed by mutual consent of the parties or if extenuating circumstances are present and are documented by the certifying agency. The maximum delay in this instance may be no more than 60 days.

B. Application

This section describes the requirements for the initial application for certification. At the discretion of the certifying agency, any of these requirements can be applied to sponsors seeking renewal of their certification or sponsors who are the subject of monitoring, corrective action plans, and possible revocation for noncompliance with the standards.

1. **Process:** Application for certification shall be made on a form provided by the certifying agency. The application form submitted shall include all requested information, the date of application submittal, and shall be signed by the applicant. At the discretion of the certifying agency, a different form may be used for recertifications.
2. **Previous Termination Disclosure**
 - a. "Termination" means denial of an original application for certification, denial of an application for recertification, or revocation of the existing certification or license of any residential or day service for adults or children.
 - b. Any applicant applying for certification or, if requested, any sponsor reapplying for renewal must disclose any previous terminations. The same applies if the applicant, current certificate holder, or any of the individuals who are proposed to provide services and supports in the home ever voluntarily surrendered a license

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or certification at any time. The applicant shall also disclose the date, place, and name of the certifying or licensing agency that provided the surrendered license or certificate, as well as information about any charges, orders, sanctions, or penalties proposed for or imposed by them on the applicant.

- c. An applicant may not reapply for certification in Wisconsin within two years after the effective date under any of the following circumstances:
 - 1) Previously denied certification or licensure for cause
 - 2) A revoked certificate or license
 - 3) A voluntarily surrendered license or certification for any type of residential provider while facing an active denial
 - 4) A decertification or revocation action

The effective date will be the date of the denial, decertification, revocation, or surrender of the certificate or license. Applicants may reapply sooner than two years if the denial was made without prejudice or if the applicant provides proof to the satisfaction of the certifying agency that the condition that caused the denial or revocation has been corrected.

- d. Failure to disclose a previous denial or license surrender in the face of revocation is grounds for immediate revocation.

3. Caregiver Background Checks

- a. Type of checks required—The following three areas will be reviewed by checking the caregiver option on the Department of Justice form DJLE-250 or DJLE 250A manually or electronically via the Internet. The background check for all subjects shall be in accordance to the procedures in Wis. Stat. § 50.054 and shall include:
 - 1) A criminal history search from the records of the Wisconsin Department of Justice.
 - 2) A search of the Caregiver Registry maintained by DHS.
 - 3) A search of the status of credentials and licensing from the records of the Wisconsin Department of Regulation and Licensing, if applicable.
- b. Who shall be checked—The certifying agency shall ensure that an up-to-date caregiver and criminal background check has been conducted on all applicants or current providers in accordance with Wis. Admin. Code ch. DHS 12. This includes new applicants, the sponsor or operator seeking renewal of certification, all staff including prospective substitute providers, and all household members who are at/over the age of 18 years. Background checks of people under the age of 18 are at the discretion of the certifying agency. This information shall be contained in any application for initial certification or recertification.
- c. Effective date and frequency—Each required new applicant caregiver background check for sponsors, operators, and staff in the AFH shall have been completed not more than one year prior to the AFH initial date of certification. Required background checks shall be done not less than once every four (4) years for sponsors, operators, and staff in existing AFHs seeking renewal of certification.

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- d. Responsibility—It is the responsibility of the certifying agency to assure that a valid background check is completed on all required people. The decision as to who does this rests within the certifying agency.
 - e. Cost of a background check—The cost of a background check is the responsibility of the sponsor/operator. The cost of this may be built into a fee charged by the certifying agency for applicants on initial certification or recertification.
 - f. Results and documentation—The certifying agency shall maintain documentation that a current background check has been done and that the sponsor, operator, all staff, and household members do not constitute a threat to a resident's health, safety, or welfare, as evidenced by their not having committed a crime substantially related to the care and support of residents who are placed in the AFH.
 - g. Disclosure—The documentation that the background check has been done, along with the results, must be available on request for inspection by the certifying agency or DHS at any time.
- 4. Required Documentation:** Before an applicant for an initial certificate or for renewal of an existing certificate may be certified to operate an AFH, the applicant or sponsor shall submit a completed application in the form required by the certifying agency to which the sponsor is applying. The applicant or sponsor shall also provide any other documentation required by these standards or requested by the certifying agency needed to determine whether the applicant is fit and qualified and complies with or continues to comply with these standards.
- 5. Program Statement:** All AFHs shall have a program statement which shall, at minimum, describe all of the following:
- a. The target group and number of individuals the applicant is willing to serve
 - b. Whether the house is physically accessible to individuals who require such assistance
 - c. The AFH physical features, grounds, and community resources that can be accessed by residents who live in the AFH with or without transportation assistance
 - d. The services and skills the AFH has to offer the resident
 - e. The operator's intentions for the AFH to be licensed or certified under other standards for serving adults or children
 - f. The operator's intentions that the AFH be used for respite care, including a statement as to the maximum number of temporary adult or child residents that may be in the AFH at any one time. The statement shall also include a description of the physical space within the AFH that will be used for temporary respite residents, how frequently the AFH may be used for respite care, whether or not the respite care will involve any additional staff being present in the AFH and whether these staff might be awake at night
 - g. Household members and their relationship, if any, with the sponsor
 - h. Anything either the AFH or certifying agency deems appropriate to help prospective residents or placement agencies make decisions related to the use of the AFH

6. **Change in Program:** Prior approval by the certifying agency is required for all program changes. If an AFH seeks to make any change in its program, the sponsor shall revise the program statement. When making a change in program, the sponsor shall first notify all current residents and their guardians, if any, 60 days prior to the intended effective date for implementing the proposed change(s). The proposed changes and revised program statement shall be submitted to the certifying agency for approval 30 days prior to implementing the proposed change. A change in the program that adversely impacts one or more residents in a significant way or poses a threat to any resident's health, safety, or welfare may be grounds for a placing agency to terminate placement.

C. Certification Process for New Applicants and Current Sponsors

In addition to the general requirements specified in the previous section of this Article, the certification process for new applicants also includes:

1. **Document Review and On-Site Inspection:** The certifying agency shall review the application and supporting documents, including the caregiver background check(s); meet with and interview the applicant, and conduct an on-site inspection of the home to determine if the requirements for certification set out in these standards are met.
2. **Professional Inspection:** The certifying agency may request any type of professional inspection if there is cause for concern about whether the home can adequately assure resident health, safety, and welfare. Such inspections may include but are not limited to fire, health, sanitation, or safety inspections. All required inspections shall be done by individuals qualified/credentialed to perform such inspections as determined by the certifying agency. Inspections may focus on the home and premises and, if transportation is to be provided, on any vehicles that will be used in transporting residents. The cost of these inspections is a cost associated with doing business as an AFH and may be negotiated into the rate identified by the funding source.
3. **Certification Fee:** A fee determined by the certifying agency may be assessed. This fee shall be based on the actual cost of performing all of the required actions involved in certification. The fee charged may be based on the average cost of certifying the home. The fee schedule shall be included in or with the application materials. The applicant for initial certification or recertification shall be informed verbally and in writing of any fee in advance, including the re-inspection fee amount. The fee schedule shall include a statement as to whether any of the fees may be refundable under specific circumstances. The policy underlying this statement is at the discretion of the certifying agency. A separate cost-based re-inspection fee may be charged for each visit after the second visit if the certification requires more than two visits to assess compliance with a requirement.
4. **Approval of Certification:** The certifying agency shall indicate approval of the applicant by issuing an AFH Certificate if the requirements for certification set forth in these standards are met. After a complete application and all supporting documents

have been received by the certifying agency, and following the completion of the required on-site visit(s), the certifying agency has 30 days to issue or deny the application. Certifying agencies may be allowed a longer time period for complex applications. If a certifying agency requires more than 30 days to review an application, the certifying agency must communicate this to the applicant. The certification approval will be valid for up to one year. If the approval is for less than one year, the certification fee amount may be negotiated. The certifying agency must show evidence justifying the reduced time frame of the certification. The certification may be extended at the discretion of the certifying agency if a recertification is under active consideration and cannot be completed by expiration date of the current certification. Extensions shall be for no more than 60 days unless there are compelling reasons for the certifying agency to approve a longer time period. Certifying agencies may also conditionally approve the applicant as long as there are specific deadlines attached to each condition imposed.

5. **The AFH Certificate:** At a minimum, the AFH Certificate shall include the following:
 - a. The number of residents for which it is certified.
 - b. The effective date of the certification and the date on which it expires.
 - c. The address of the AFH that is certified.
 - d. The target group(s) that will be served.
 - e. Documentation of compliance with requirements under 42 C.F.R. § 441.301(c)(4) if the AFH intends to serve participants within Medicaid home and community-based waiver programs.
 - f. Any special circumstances or conditions of approval including any approved exceptions.
 - g. The signature of a representative of the certifying agency.
 - h. Exceptions may be added to the certificate at any time during the term of certification by the issuing of an updated certificate.
6. **Denial of Certification:** The application for certification submitted by a new applicant shall be denied if the applicant does not comply with the standard for actions involving nonapproval or termination described in Article IV.F.
7. **Requirements for the Notice of Denial of Original Applications and Renewal and Revocation of Certification of Existing Homes:** If the certifying agency finds that the applicant for certification or sponsor of an existing AFH fails to comply with provisions of these standards that reach the level of the criteria for maintaining certification described in Article IV.F., the certifying agency shall give written notice of this decision not to certify, renew certification, or revoke certification. The notice shall conform to the requirements in Article IV.G.
8. **Nontransferability:** Certification is not transferable to another sponsor, address, or to another private residence.

D. Certification Renewal

In addition to the general requirements specified here that apply to new applicants or applicants applying for renewal of certification, the certification process also includes the requirements in this section.

- 1. Required Renewal:** Certification must be renewed annually on a form provided by the certifying agency. A full or more detailed application is required when there is:
 - a. A change in the type or amount of services the operator offers to or is required to provide; if the change may adversely affect any resident who needs service or support; or if the change diminishes the operator's or staff's ability to adequately supervise the residents or household members needing support.
 - b. A change in the legal status of the sponsor, operator, staff, or any household member being charged with or convicted of any crime that is substantially related to being a caregiver as stated in Wis. Admin. Code § DHS 12.06.

- 2. Submittal Requirements**
 - a. The certifying agency shall provide renewal forms to the sponsor of all certified AFHs up to 60 but not less than 30 days before the expiration date of the AFH's current certification. The sponsor may be required to submit documentation required by these standards or requested by the certifying agency.
 - b. If the certifying agency intends to decline to renew certification of the AFH, the certifying agency shall provide notice of this decision to the sponsor not less than 60 days prior to the expiration date of the AFH's current certification. The notice shall explain the reasons why the certifying agency is declining to recertify the AFH. The certifying agency may decline to recertify an AFH if that certifying agency no longer has or expects to have any residents placed there at the time of the renewal.

- 3. On-Site Visit**
 - a. At a minimum, the certifying agency must conduct an on-site inspection every three years as part of the renewal process.
 - b. To adequately observe service delivery or areas of concern, visits should be scheduled at a time when individuals receiving HCBS waiver funding and staff are present in the home. The certifying agency staff person should attempt to engage other residents, staff, household members, or others associated with and present in the AFH during the visit.
 - c. If there are complaints or other concerns, the certifying agency may perform an on-site inspection at any time.

- 4. Renewal Approval:** If certification is renewed, the certifying agency shall issue a certificate of renewal in the same format as the original certificate showing the effective dates of the renewal and the expiration date.

- 5. Renewal Denial and Notice**
 - a. If the certifying agency determines that the AFH does not meet these standards, and/or falls within the criteria for renewal denial contained in Article IV.F., the

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certifying agency shall initiate the application denial process complying with the notice requirements in Article IV.G.

- b. While the AFH remains certified during this notice period, the status and the notice period do not prevent any placement agency from requiring the removal of any resident for the purpose of assuring any resident's health or safety. Such a removal requires guardian notification. If the sponsor of the AFH is acting as the placement agency, the certifying agency may require temporary removal of the residents while the proposed denial is under administrative review, if a review has been requested by the sponsor.
- c. The sponsor or operator, resident, guardian if one is appointed, and placing agency must be notified timely of the certifying agency's decision to deny renewal of certification.

E. Revocation

1. **Authority:** The certifying agency may revoke an AFH's certification at any time if the certifying agency finds that the sponsor has violated or does not comply with one or more provision of these standards or any other applicable laws, or rules that apply to an AFH in a manner that meets at least one of the criteria in Article IV.F.
2. **Revocation Notice:** If the certifying agency revokes the certification, it shall issue a notice of revocation to the certificate holder conforming to the requirements of Article IV.F.
3. **Status Pending Revocation:** During the period between the notice of revocation and either the effective date of the revocation or the date on which all administrative reviews of the decision to revoke have been completed, the AFH remains certified. This status does not prevent any placement agency from requiring the temporary or permanent removal of any resident from the AFH for any purpose including the purpose of assuring any resident's health or safety. If the AFH is acting as the placement agency, the certifying agency may require temporary removal of the residents while the revocation is under review.
4. **Placing Agency Notification:** If the certifying agency revokes the AFH's certification, the certifying agency shall immediately notify all placing agencies associated with all residents of the home of this decision. The notice shall include but is not limited to the reasons for the revocation citing the sections of these standards about which the AFH and/or the sponsor did/does not comply. This status and the notice period do not prevent any placement agency from requiring the removal of any resident from the AFH for the purpose of assuring any resident's health or safety.

F. Standard for Actions Involving Nonapproval or Termination

1. **Options for Certifying Agency Action Involving AFHs that Fail to Comply with Standards:** The certifying agency may adopt any of the following as part of a

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corrective action plan imposed on the AFH if it does not meet the standards for certification:

- a. Suspend any new admissions to the AFH
- b. Suspend the AFH certification barring it from having any residents present subject to the AFH's completing a corrective action plan
- c. Terminate or deny the AFH's certification. Termination requires that the AFH meet the criteria for termination listed elsewhere in this section and receive notification according to the requirements of this Article.

2. Criteria for Termination (Initial Denial, Renewal Denial, or Revocation) of an Adult Family Home's Certification: The certifying agency may deny an AFH's certification at the point of initial application, terminate at the time of renewal, or revoke at any time. Such action may be taken if the certifying agency finds that the sponsor has violated or does not comply with these or any other applicable standards, rules, or laws that apply to an AFH in a manner that meets one (1) or more of the following criteria:

- a. The noncompliance places any resident's health, safety, or welfare at risk.
- b. The noncompliance significantly interferes with or prevents the proper implementation or monitoring of any resident's service plan or plans.
- c. The noncompliance involves a violation of the resident's rights involving abuse, neglect, mistreatment, financial exploitation or misappropriation of funds, misuse of restrictive measures including use without DHS approval, or denial of the right to direct the resident's own services.
- d. The noncompliance evidences a pattern of carelessness in operating the AFH, repeated violation of one or more standards, or repeated failure to successfully complete corrective action plans within a reasonable time period.
- e. The applicant or sponsor of an existing AFH fails to disclose or misrepresents information on the qualification of the applicant or sponsor on an application or in supplemental information submitted in response to a request by the certifying agency.

G. Standard Requirements for Notices

This section applies to any sponsor of an AFH applying to renew certification that meets the criteria in this section and is, therefore, subject to nonrenewal; any sponsor of a certified AFH that meets this section and is, therefore, subject to revocation; any new applicant for certification; any person who is reapplying for certification after that person's certification expired that meets the criteria in this section and who will, therefore, be denied certification. The notice must include the following elements:

1. The applicant shall be given written notice of the decision not to certify the home.
2. The notice shall state the reasons for the denial of certification.
3. Cite the section or sections of the standards with which the applicant did not comply.

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4. Inform the applicant of the opportunity to request an administrative review of the nonapproval decision under Article IV.H.
5. The notice of denial shall state that the applicant has 15 days after the date of the notice to file a request for the administrative review and inform the applicant of the steps necessary to initiate such a review.

The notice to the applicant, sponsors, resident, guardian if one is appointed, or placing agency must be timely.

H. Administrative Review

1. Certifying Agency Review

- a. Actions/decisions that can be contested—An applicant or operator may contest a decision not to certify a home under Article IV.C.6., not to renew a certification under Article IV.D., or to revoke a certification under Article IV.E. The sponsor or certificate holder may also use this process to request an administrative review of required corrective actions or conditions of approval applied to a certification.
- b. Process—To request an administrative review, the applicant, sponsor, or certificate holder or their legal representative should they choose to employ legal counsel, shall submit to the director of the certifying agency or his/her designee, a written request for an administrative review of the decision.
- c. Content of Request—The request shall include a concise statement of the reasons for objecting to the action taken by the certifying agency.
- d. Deadline for Receipt of Request—A request for administrative review must be received by the certifying agency within 15 days of the date on the notice of denial or revocation by the certifying agency. The certifying agency may extend the 15-day deadline for any reason, including providing time for an informal dispute resolution process.
- e. Certifying Agency's Review—The director of the certifying agency or designee shall review the applicant's or sponsor's reasons for appealing the decision, the factual findings that led to the decision, and make a determination about the merits of the request. If the applicant or sponsor is represented by an attorney, the certifying agency should consult their own legal representative. The certifying agency's director shall send a written decision to the applicant or sponsor, or to the applicant's or sponsor's attorney if represented by an attorney, within 30 days after receipt of the request for review.
- f. Certifying Agency Response—The certifying agency's written response shall state the decision, explain why it was made, and inform the applicant or sponsor that if they still disagree with the decision, they may, within 15 days after the date of the certifying agency's decision, request an administrative review of the certifying agency's original decision by the Department.

The certification agency shall send the communication of all decisions made pursuant to this section and any copies of significant documentation of the rationale for the decision, if any, to the DHS-designated AFH contact. The use of

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administrative review process by the certifying agency does not prevent the placing agency from taking action related to the placement of the resident(s) in the AFH.

2. Department Administrative Review

- a. The request—An applicant, sponsor, or certificate holder may contest the certifying agency's decision. To do so, the applicant, sponsor, or their legal representative shall, within 15 days after the date of the certifying agency's decision, submit a letter requesting an administrative review of the certifying agency's decision to the DHS-designated AFH contact requesting an administrative review of the certifying agency's decision. The DHS may extend the 15-day deadline.

Requests can be sent to the following:

Department of Health Services

Bureau of Adult Long Term Care Services, 1-2 AFH Review

1 West Wilson Street, Room 518

P.O. Box 7851

Madison, WI 53707-7851

Email: dhsbmc@wisconsin.gov

- b. Department response—The Administrator of the Division of Medicaid Services or designee shall make a decision based on the facts presented and shall send a written decision to the applicant or sponsor and certifying agency within 45 days after the receipt of the request for review communicating the decision. The DHS may extend the deadline if needed. The DHS decision shall be final. Administrative review by DHS does not prevent the placing agency from taking actions related to the placement of the resident(s) in the AFH.

V. Requirements for the Home

A. Location and Access to the Community

The setting is integrated in and supports full access of people receiving Medicaid HCBS to the greater community, including 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.

Consistent with the previous paragraph, AFHs may be located anywhere residences are permitted in a community, but should be located in anticipation of resident needs to get to employment opportunities or access community activities and supportive services. Consideration will be given to the location of the AFH with regard to maximum integration within the community, thereby minimizing clustering numerous AFHs in close proximity to one another.

Placement decisions will consider access to such modes of transportation as walking or convenient private or public transportation. Applicants and sponsors will consider the nature and potential cost of assistance residents may need to get to activities and services. An AFH should also consider how hired staff will access it at all times.

Any setting that is located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment in a building on the grounds of, or immediately adjacent to, a public institution, or in any other setting that has the effect of isolating people receiving Medicaid HCBS from the broader community of people not receiving Medicaid HCBS, will be presumed to be a setting that has the qualities of an institution unless the Secretary determines through heightened scrutiny, based on information presented by the state or other parties, that the setting does not have the qualities of an institution and that the setting does have the qualities of home and community-based settings.

B. Resident Access to and Within the Building

The AFH shall be **physically accessible to** all individuals residing there and to prospective residents considering placement there. Residents shall be able to enter, exit and move about in the AFH and get to their bedrooms, bathrooms, common living and dining areas, and kitchen without difficulty. Nonambulatory residents placed in the AFH shall have access to all common areas including living rooms and dining areas. Home modifications, such as ramps, grab bars, and widened doorways, etc., provided to address the nonambulatory resident's assessed needs must be installed in the AFH prior to and as a condition of that resident's placement. Failure to provide such modifications or adaptations may be grounds for termination of a placement.

C. Home Environment

Home and community-based settings must have all of the following qualities, and other such qualities as the Secretary determines to be appropriate, based on the needs of the person as indicated in his or her overall person-centered service plan:

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- 1. Privacy: An individual's rights of privacy, dignity, and respect must be ensured.**
The AFH shall provide space and adequate physical features, such as doors and interior sound control, so that residents can have privacy when the resident wishes to be alone and/or undisturbed.
- 2. Safety and Cleanliness:** The AFH and grounds shall be safe, clear of obstructions, free from hazards, clean, well maintained, kept uncluttered, and be free from insects and rodents. The AFH shall be capable of meeting all applicable state and local building, fire, and zoning codes. It shall be free from dangerous substances or have such substances stored safely and appropriately.
- 3. Household Items:** The AFH shall have clean, functioning, and safe household equipment, items, and furnishings.
- 4. Sufficient Space:** The AFH shall have space to accommodate all household activities and members and their possessions comfortably. Residents shall have access to a reasonable amount of secure personal storage space.
- 5. Common Areas:** There shall be large common areas with sufficient space and furnishings so that all occupants can comfortably share the space at the same time if desired by residents.
- 6. Mechanical Systems:** The AFH shall have adequate, safe, and functioning heating; hot and cold water; fire protection; electrical; plumbing; sewerage; and lighting systems. All systems shall be operated so the AFH is comfortable for all residents and habitable at all times. Indoor temperatures shall be set in all seasons to take into account any special needs of any resident for warmer or cooler conditions. Higher or lower temperatures shall be provided to the extent possible when requested by the resident.
- 7. Well Water Samples:** Where a public water supply is not available, water samples shall be taken from the well and tested at least annually at the state lab of hygiene or other laboratory.
- 8. Garbage Removal:** The AFH shall have adequate and functioning removal services, including refuse removal and recycling when possible or required.
- 9. Laundry:** The AFH shall have or arrange for access to laundry facilities for residents.
- 10. Windows/Ventilation:** The AFH shall have adequate ventilation for the health and comfort of all household members. There shall be at least one window capable of being opened to the outside in each common room available for use by residents or have some means of providing adequate ventilation in these areas. Windows used for ventilation shall be screened during appropriate seasons of the year.

- 11. Limitation on Use for Business Purposes:** Unless it provides a resident with an opportunity to work, the AFH shall not be used for any commercial, production, retail business, or any other enterprise that regularly brings customers/clients or support service personnel to the AFH. Home businesses that do not bring a significant amount of outside customers to the home may be permitted if the business does not adversely impact resident privacy, uses, or enjoyment of their home, or impact on the sponsor's or other staff member's ability to provide the level of service, support, and supervision called for in resident's AFH service plan.
- 12. Weapons:** In accordance with 2011 Wisconsin Act 35, a licensed individual is not prohibited from carrying a concealed weapon, as defined in Wis. Stat. § 175.60(1)(j), in his or her own dwelling or on land that he or she owns, leases, or legally occupies. This privilege applies to a resident of an AFH that obtains a permit to carry a concealed weapon. Rifles and/or other weapons that may not be carried as concealed weapons must be stored and physically secured in an area that is not readily accessible to residents. A weapon for which a resident has a permit to carry concealed must also be stored and secured when not being carried by that permit holder. The decision to allow or prohibit weapons in the AFH belongs to the sponsor or certificate holder of that particular AFH. The sponsor or certificate holder shall require that the weapons and ammunition, when not being carried by a permit holder, be stored and locked separately. The sponsor or certificate holder may decide whether or not to permit visitors from carrying a concealed weapon within the common areas of the home. If the sponsor or certificate holder decides to prohibit weapons on the property, he or she shall give notice of that decision, as required by state law, usually done by posting the notice.
- 13. Carbon Monoxide Detectors:** Each AFH shall have working carbon monoxide detectors on every floor, including the basement. A detector should be located within 10 feet of each bedroom door and there should be one near or over any attached garage. Each detector should be replaced every five to six years.

D. Bathrooms

- 1. Number:** There shall be at least one bathroom with at least one sink, toilet, and shower or tub for every eight household members.
- 2. Doors:** The door of each bathroom shall have a lock that can be locked from the inside, and able to be opened from the outside in an emergency.

E. Bedrooms

1. **Maximum Capacity:** A resident's bedroom may accommodate no more than two people.
2. **Floor Area for Ambulatory Residents:** In the event a resident chooses to share a bedroom, the bedroom shall have a floor area of no less than 60 square feet per resident. In the event the resident has a single occupancy bedroom, the floor area shall be no less than 80 square feet. Based on individual assessment and the AFH service plan, additional space may be required.
3. **Resident Privacy:** A resident's bedroom may not be used by any other person to get to any other part of the building or for any use not related to the occupants of the room.
4. **Bedroom Windows:** There shall be at least one window in each bedroom. Windows in bedrooms shall be capable of being opened to the outside in each resident bedroom or have some means of providing adequate ventilation. Windows used for ventilation shall be screened.
5. **Limitation on Bedroom Location:** Hallways, kitchens, living rooms, dining rooms, unfinished basements, closets, passageways, or garages may not be used as resident bedrooms. No resident may regularly sleep in a basement bedroom or in a bedroom above the second floor of a single-family dwelling unless there are two exits that conform to the specification in Article V.G.4.
6. **Bedroom Requirements for Nonambulatory Residents**
 - a. Accessibility—Bedrooms of nonambulatory residents must be accessible and permit evacuation in the event of a fire or other emergency.
 - b. Floor area for nonambulatory residents:
 - 1) Bedrooms shall not be less than 100 square feet per non-ambulatory resident.
 - 2) No more than two individuals may share a bedroom.
 - c. Conditions required for use of shared bedrooms:
 - 1) Residents shall not be required to share a bedroom. Residents shall have their own bedroom, but shall be allowed to share a bedroom if a shared bedroom is preferred by the resident and the resident's guardian, if any, and is agreed to by the other party.
 - 2) **People sharing units have a choice of roommates.**
 - 3) Accommodations shall be made for any two residents who wish to share a sleeping room if possible and requested.
7. **Privacy: Each individual shall have privacy in their sleeping or living unit.** A resident's bedroom shall provide comfort and privacy, shall be enclosed by floor-to-ceiling walls, and shall have a rigid door that the resident can open and close.

In addition to the qualities listed in C.F.R. § 441.301(c)(4)(i) through (v), a provider-owned or controlled residential setting must have units with entrance doors lockable by the resident, and only appropriate staff can have keys to the doors (42 C.F.R. § 441.301[c][4][vi][B][1]).

If the AFH intends to serve participants in Medicaid home and community-based waiver programs, the door must be equipped with a lock that is keyed individually from other rooms in the home and that can be locked by the resident when in the room and upon departure. Only authorized staff can have access to a key. The lock must not restrict a resident's ability to exit the room.

8. **Beds:** There shall be a separate bed for each resident unless each resident chooses to share one bed. The bed shall be clean, in good condition, and of proper size and height for the comfort of the resident(s).
9. **Linens:** Bedding and linens shall be provided to residents, be in good repair, maintained in clean condition and laundered regularly.
10. **Storage Space:** Each resident shall be provided with conveniently located individual storage space sufficient for hanging and storing clothes and for storing other personal belongings. If requested by the resident, the storage space shall be able to be locked.
11. **Room Decor: People can furnish and decorate their sleeping or living units within the lease or other agreement.** To the extent that space allows, residents are allowed to bring their own bedroom furnishings and accessories, and to personalize and individualize their room.

F. Kitchen and Dining Room

1. **Space and Equipment:** The kitchen shall be equipped with a full range of appliances that are appropriately sized for the number of household members. There shall be sufficient space and equipment in the kitchen for the sanitary preparation and storage of food.
2. **Size:** The dining room/area should be large enough so that all household members may dine together if they choose to do so.

G. Fire Safety

Compliance with these standards does not relieve the sponsor or sponsoring agency of the obligation to comply with other applicable state or local codes that may have stricter provisions.

1. **Fire Extinguishers:** Every AFH shall be equipped with one or more fire extinguishers on each floor. Each required fire extinguisher shall have a minimum 2A, 10-B-C rating. All required fire extinguishers shall be mounted. A fire extinguisher is required at the head of each stairway, and in or near the kitchen. A

- single fire extinguisher located in close proximity to both of these areas may be used to meet the requirement. Each required fire extinguisher shall be maintained in ready-to-use condition, shall be inspected annually by an authorized dealer or the local fire department, and have an attached tag showing the date of the last inspection.
- 2. Smoke Detector Location:** Every AFH shall be equipped with one or more single-station, battery-operated, electrically interconnected or radio-signal-emitting smoke detectors on each floor. Required smoke detectors shall be located in each habitable room except the kitchen and bathroom, and specifically in the following locations: at the head of each open stairway; at the door leading to every enclosed stairway; in the living and/or family room; and in each resident bedroom. Required smoke detectors placed on ceilings shall be at least 4 inches away from any wall. Required smoke detectors on walls shall be placed within 4 to 12 inches from the ceiling in each room in which they are required. A smoke detector located in close proximity to one or more of these areas may be used to meet more than one of these requirements.
 - 3. Smoke Detector Tests:** The AFH sponsor or operator shall maintain each required smoke detector in working condition, and test each smoke detector not less than monthly to make sure that it is in operating condition. If a unit is found to be not operating, the sponsor or operator of the AFH shall immediately replace the battery or repair or replace the unit.
 - 4. Exits:** Exits shall meet applicable building codes for exits, including:
 - a. Exiting from the first floor—The first floor shall have two accessible exit doors. At least one of the exits shall discharge to grade. The additional exit may discharge to an outside balcony or an attached garage provided the garage has an exit door that discharges to grade.
 - b. Exiting from the second floor—At least two exits shall be provided from the second floor. One of the exits shall be a stairway or ramp that leads to the first floor or discharges to grade. The second exit may be via a stairway or ramp, a balcony, or a window that meets building code requirements for windows used for exiting.
 - c. Exits above the second floor—At least two exits shall be provided for each habitable floor above the second floor. The exits shall be stairways or ramps that lead to the second floor or discharge to grade.
 - d. Exiting from basements—All basements shall be provided with at least one exit that is either a door to the exterior or a stairway or ramp that leads to the floor above. If a basement is used for a bedroom, at least two exits shall be provided. The second exit can be an additional door to the exterior, or an additional stairway or ramp that leads to the floor above or to the garage if the garage meets the requirements in Article V.G.4.a., or an egress window located in the resident’s bedroom.
 - 5. Fire Safety Evacuation Plan:** The sponsor shall have a written plan for the immediate and safe evacuation of all occupants of the AFH in the event of a fire. The plan shall identify the necessary elements needed for such a plan, including but not

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limited to evacuation route and equipment needs. The plan will identify an agreed upon exterior meeting place for all household members to go to in the event of an emergency evacuation. If a resident is incapable of self-evacuation in an emergency, the sponsor, staff, or substitute provider shall be physically present in the AFH whenever that resident is present in the home. The AFH sponsor or operator shall review the fire safety evacuation plan with each new resident immediately following placement. All caregivers, including substitute caregivers, shall receive training on the fire safety evacuation plans prior to working in the AFH and be capable of assisting residents, including nonambulatory residents, to safety in the event of a fire.

6. **Fire Drills:** The AFH sponsor or operator shall conduct fire drills semiannually with all household members and whenever there is a change in household member. Written documentation of the date, time, and evacuation time for each drill shall be maintained by the home.
7. **Report of a Fire:** The sponsor or operator shall report a fire in the AFH for which the local fire department was called to the certifying agency within 24 hours and describe what happened. A written report of this event shall be provided if required by the certifying agency.

H. Telephone

The AFH shall provide at least one nonpay telephone for residents to make and receive telephone calls. The home may require that any long distance or toll calls made by residents be made at a resident's own expense. Emergency telephone numbers, including numbers for the fire department, police, nearest hospital emergency room, primary care provider of each resident, poison control center and ambulance, shall be posted and located prominently on or near each telephone.

I. Household Pets

1. **Ownership:** Pets may be allowed on the premises of an AFH. Pet ownership shall comply with local ordinance.
2. **Health and Vaccinations:** Cats, dogs, and other pets vulnerable to rabies, which are owned by any resident or household member, shall be vaccinated as required under local ordinance. A pet suspected of being ill or infected shall be treated immediately for its condition or removed from the AFH.
3. **Cleanliness:** Pens, cages, and litter boxes shall be kept clean. All areas of the AFH to which pets have access shall be kept clean. Pet excrement shall be disposed of properly.
4. **Care:** Pets shall be kept and handled in a manner that protects the well-being of both residents and pets.

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5. **Resident Consent:** Prospective residents considering placement in the AFH should be told about any pets in the home. The wishes of residents shall be considered before a new pet is allowed on the premises.
6. **Temperament:** The sponsor or operator shall assure that pets are under control and do not present a danger to residents or guests.

VI. Sponsor, Operator and Staff Qualifications

The standards under this section shall be met at the time of certification, before any placements may occur, and shall be reviewed at each renewal of certification.

A. Personal Qualifications

1. General Qualifications

- a. Age, fitness, and ability—The sponsor or operator, any staff person, and every substitute provider shall be at least 18 years of age and shall be physically, emotionally, and mentally capable of providing services, supports, and supervision for residents of an AFH. The sponsor, operator, any staff, and every substitute provider shall be people who are responsible, mature, and of reputable character and who exercise sound judgment. The sponsor or operator, any staff person, and every substitute provider shall have the ability to respond to the routine or emergency needs of the residents.
 - b. Application information required—An applicant for certification or a sponsor requesting renewal of certification shall provide relevant information required by these standards and requested by the certifying agency to assist in evaluating the character and qualifications of applicants, sponsors, operators, any/all substitute providers, and staff who work in the home. The certifying agency may deny or revoke certification if the applicant fails to provide required information or provides false or inaccurate information during the certification or renewal process if the correct information would have disqualified the home or applicant.
- 2. Caregiver Background Checks:** Prior to issuing a certification, and not less than once every four years thereafter, background checks that conform to the requirements in Article IV.B.3. shall be done. Information obtained from the caregiver background checks must be evaluated by the certifying agency pursuant to Wis. Admin. Code ch. DHS 12. If any staff or household member has a conviction record or a pending criminal charge that substantially relates to being a caregiver, to the use or management of funds or property of adults or minors, or to activities of the AFH, the certifying agency may deny, revoke, refuse to renew, or place conditions on the AFH's current certification based on information received in the caregiver background checks. Background checks shall be maintained with the application. No exceptions under Article II of these standards may be granted modifying this requirement.
- 3. Financial Security:** The sponsor may be requested to present evidence of having, or having access to, sufficient financial reserves to operate the home and meet the needs of all residents and household members for whom the sponsor is financially responsible, and to ensure the adequate functioning of the home for a period of at least 30 days without receiving payment for services rendered to/for any resident.

4. Health

- a. Physical Examination—The applicant for an initial certification shall submit a statement from a physician, physician’s assistant or nurse practitioner certifying that the applicant or sponsor, operator, all staff and all members of the household have had a physical examination, and that these individuals do not have an illness or condition that would threaten the health, safety, or welfare of residents or interfere with any person’s capacity to provide services. The statement may not be dated more than one (1) year prior to the date of the application.
 - b. Communicable disease detection and control
 - 1) Documentation of Screening. The sponsor shall obtain documentation from a physician, physician’s assistant, clinical nurse practitioner, or licensed registered nurse indicating that the sponsor and all household members over 18 years of age have been screened for clinically apparent communicable diseases, including but not limited to tuberculosis (TB). The statement may not be dated more than 90 days prior to the date of the application.
 - 2) Management and control. All residents shall be kept away from any household member(s) with symptoms of a communicable disease that may present a safety or health risk for a resident. If the results of any screening done on any household member are positive and the household member does have the communicable disease, the sponsor or operator shall take steps to isolate the household member from all residents to the extent possible.
 - c. Other health examinations—If, at any time, the certifying agency suspects, is informed by the placing agency, or has reason to believe that the applicant, sponsor, operator, substitute provider, staff, or other household member has been exposed to a potentially dangerous disease or infection, or may pose a threat to the health, safety, or welfare of residents, the certifying agency may require a physical exam, a screen for communicable disease (including TB), an alcohol or drug abuse assessment, or a mental health evaluation of the person. The placing agency may also require such an exam as a condition of the continued placement of the resident(s).
- 5. Conflicts of Interest:** The sponsor shall have no conflicts of interest barred by law. If a conflict not barred by law exists, consistent with the requirements in Articles VII.B., the sponsor will work with the certification agency to minimize the impact of the conflict.
- a. Determination of any conflicts of interest—If a conflict exists but cannot be eliminated, the sponsor shall:
 - 1) Identify and communicate the conflicts of interest to the care manager.
 - 2) Inform prospective resident(s) and the prospective residents’ guardian.
 - 3) Collaborate with the care manager on the management of the conflict.
 - b. Management of conflicts of interest—If the prospective home is selected, despite the existence of the conflict of interest, the care manager shall:
 - 1) Identify efforts to address or mitigate the possible effects of the conflict of interest.
 - 2) Support the resident’s or the resident’s guardian, if any, in efforts to address the conflict.

- 3) If resolving or mitigating the conflict is not feasible, take actions to minimize the effects of the conflict.
 - c. Documentation by care manager and sponsor—Document in the resident’s file the identified conflict(s) of interest, any discussion(s) about the conflict of interest with the resident and the resident’s guardian, the certification entity, and the effort taken to address, mitigate, or minimize the conflict of interest.
- 6. Transportation Services:** An applicant, sponsor, or operator who plans to provide transportation services for residents in his or her vehicle, or that of any other staff person, shall ensure that any staff performing this function has a valid driver’s license. Additionally, they shall meet the requirements for providers of the transportation service in the waiver or other program that funds the AFH, including, but not limited to, adequate automobile insurance.
- 7. Liability Insurance:** The applicant or sponsor may be required to present documentation indicating that the applicant has or is in the process of obtaining sufficient insurance coverage to provide liability protections to the certifying agency.
- 8. Training**
 - a. Initial training—Except as provided in Article VI.A.8.b., the operator, substitute provider, and all staff who regularly provide services in the home and who meet the definition of caregiver shall have completed not less than 10 hours of up-to-date, certifying agency-approved training related to the health, safety, welfare, rights, community integration, and service provision to residents during the first year of certification. For applicants with no prior experience in providing this service, this training shall also include training in fire safety and first aid. The certifying agency may require the sponsor to obtain training in amounts that exceed the minimum 10 hours if additional training is required to assure the health, safety, or welfare of all residents or to address the individual service needs of a specific individual who will be placed in the AFH who has specialized service needs. The certifying agency may require an applicant to complete some or all of this training prior to certification.
 - b. Waiver or substitution of initial training—The certifying agency may approve alternatives to the training requirements in Article VI.A.8.a. if applicant requests approval of such alternatives and the certifying agency determines that:
 - 1) The person has successfully completed substantially similar or related training.
 - 2) The person has successfully completed course work or an academic degree program related to the care and support of elders, people with disabilities, or other people in need of care or treatment.
 - 3) The person has acquired substantial and up-to-date knowledge concerning care and treatment and the health, safety, welfare and rights of people who are elderly or have disabilities through prior experience as a care provider in licensed or certified programs that are substantially similar to AFHs.
 - c. Ongoing training—Annually, the sponsor, operator, substitute provider, and all staff who regularly provide services in the AFH and who meet the definition of

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caregiver shall complete eight hours of training approved by the certifying agency related to the health, safety, welfare, rights, community integration, and treatment of residents. The certifying agency may require the sponsor to obtain training in amounts that exceed the minimum eight hours to ensure that resident health, safety, and welfare are protected and promoted or for any reason. This may include training in the use, avoidance, and approval process involved when restrictive measures may be needed under emergency or nonemergency conditions for residents with either current or a history of challenging or dangerous behaviors.

- d. Training in excess of required training—The certifying agency or placing agency may require the sponsor, operator, and any caregiving staff who provide services to residents to obtain additional training in amounts that exceed the minimum requirements in these standards. This may be done at the time of initial certification, as part of the ongoing training expectation, or in response to the unique needs of a new prospective resident. Such additional training must be deemed necessary to serve the residents to be placed in the AFH to assure resident health, safety, and welfare and to ensure that services effectively meet the current or prospective resident's assessed needs. The additional training may be about topics related to:
 - 1) The program statement of the AFH, if required.
 - 2) The support and service needs of any resident currently served in the AFH.
 - 3) The support and service needs of a prospective resident who is proposed to be placed in the AFH.
 - 4) Medication administration and oversight.

VII. Certification of Relatives/Guardians of Residents

A. Applicability

This section applies to applicants seeking certification, sponsors or operators of currently certified AFHs, and any staff who work in any AFH in situations when a prospective resident or current resident is a relative of the applicant, sponsor, operator, or any staff in the AFH and/or is that resident's guardian. A relative or guardian seeking certification shall complete the certification process described in Article IV.

B. Responsibility for Preventing or Monitoring Adverse Impacts of Conflicts of Interest

The primary responsibility for ensuring that any conflict barred by law is prevented, or for monitoring adverse impact of a permissible conflict of interest resides with the placing agency and its support/service coordinator/care manager, if any. The role of the certifying agency is to ensure that the placing agency is performing this role and, if there is no placing agency, to perform this role itself. If a conflict of interest is identified, it is the responsibility of the placing agency or, if there is no placing agency, the certifying agency, to ensure that affected residents and their guardians, if any, are notified about the existence and nature of the conflict.

C. Monitoring

The agency conducting the monitoring should focus on all of the following:

1. The placing and certifying agency shall ensure that placement in the AFH of the guardian or in the home of a relative is in the best interest of the resident and, to the extent it can be known, the AFH is the resident's choice.
2. The adequacy of the person's AFH service plan in light of the person's assessed needs and personal outcomes, if any.
3. The extent to which the AFH service plan is being implemented as specified and intended.
4. How and by whom the resident's personal funds are being managed, and whether all funds are being used for the benefit of the resident and not the provider/guardian/family member.
5. That the resident's plan provides for, and the resident is experiencing, appropriate and ample opportunities to interact in and with other members of the community.
6. Any issues that the agency has identified as putting the resident at higher risk for mistreatment.

D. Placing Agency Response

If the placing or certifying agency has cause for concern about any of the findings in Article VII.C., the agency shall:

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1. Consider and take action as necessary to change the resident's placement.
2. Make appropriate reports to the resident's county protective service agency, law enforcement agency, or court depending on the nature of the concern (these reports may include a request for a change in guardianship).
3. Initiate a process to revise the person's overall person-centered service plan to better address resident needs, desired life experiences, and individual outcomes if these are not being adequately addressed by the current situation.
4. Take other actions consistent with the terms of its contract with DHS, or other statutory or administrative rule authorities.

VIII. Sponsor or Operator Responsibilities

A. Supervisory Responsibility

1. Community Care Homes

- a. The sponsoring agency shall employ a person who serves as the operator of the community care home. The operator may reside in the home as a condition of employment or may come to the community care home to work. The operator must be assigned to be in the community care home, with its residents anywhere in the community, or performing a function directly related to the day-to-day operations of the home to which s/he is assigned. No operator of any community care home may spend more than eight hours in any week or 16 hours in any month performing any tasks associated with any other facility.
 - b. The operator is responsible for the day-to-day operations of the community care home.
 - c. The operator may not perform the functions described in this section or perform more than a nominal amount of work in any other home or for/in any other provider setting that the certificate holder or any other agency may operate. This includes coverage of the staffing of a different home or other setting if acting as the primary responder to back up needs in this setting.
 - d. If the operator leaves the premise for a legitimate work and home-related reason, the operator must ensure that he or she has designated a qualified person to be in charge and remain there to supervise any other resident(s) who may be in the community care home.
- 2. Traditional AFHs:** The sponsor is responsible for the day-to-day operations of the AFH and for designating a qualified substitute provider if the sponsor is absent for any amount of time.

B. Provision of Services

The sponsor or operator shall ensure the provision of all services identified and specified in each resident's AFH service plan, and that all services are provided in the amount and manner described in the plan. The operator shall also facilitate the provision of all other services specified in each resident's AFH service plan that are the responsibility of other providers, when these services are to occur within the AFH, by allowing access to the home by the other providers. The sponsor or operator shall report to the placing agency any failure of a provider to deliver a planned service, if any, in a timely fashion or as specified by the placing agency.

C. Coverage For Absence

- 1. Community Care Homes:** The sponsoring agency or operator shall have a written, functional back-up plan that ensures a qualified substitute provider will be available for any period of time when the operator or any required staff are unexpectedly absent from or unavailable to provide required services in the community care home. Required staff in this section means a staff person who works for or in the community

care home, and who must be present to provide a time- or schedule-sensitive service for a resident. This does not apply to short-term absences by the operator for routine errands or other appointments, if the resident(s) does not require full-time supervision or if other qualified staff members are present to provide supervision.

2. **Traditional AFHs:** The sponsor of an AFH shall have a written, functional back-up plan if the sponsor is absent from the AFH or is unable to serve as the primary service provider for its resident(s). Such a plan may include another household member, as long as that member is qualified to provide all services needed and required by the residents. This does not apply to short-term absences by the operator for routine errands or other appointments, if the resident(s) does not require full-time supervision or if other qualified staff members are present to provide supervision.

D. Required Reporting of Harm to a Resident or the Home

1. **Requirements:** If the sponsor or operator knows, has reasonable cause to suspect, has received reports from other household members or staff, and/or has observed any of the following, the sponsor or operator shall notify the people and agencies listed in Article VIII.D.2. within 24 hours of discovering or receiving a report about these matters:
 - a. Any significant change in a resident's health status or medical condition, including any life threatening, disabling, or serious illness or injury; any illness lasting more than three days; any injury sustained by the resident; and/or unplanned or unexpected hospitalization or medical treatment needed and/or received by the resident.
 - b. Any unplanned absence of a resident from the home. This shall be reported immediately if the resident's whereabouts are unknown and the resident does not or may not have adequate supervision, or within the first 24 hours if the nature of the absence has not yet been determined.
 - c. Abuse, neglect, or mistreatment of a resident due to any cause. An operator, sponsor, or any staff who knows or has reasonable cause to suspect that a resident has been abused or neglected as defined in Wis. Stat. § 46.90 or 55.043 shall immediately contact the certifying agency and follow up the notification with a report on a form prescribed by the certifying agency. Providing notice under this subsection does not relieve the operator or any other staff person of the obligation to report an incident to law enforcement authorities. If the operator has reason to believe that a crime has been committed, the incident shall immediately be reported to law enforcement authorities, as required reporters of adults at risk and elder adults at risk under Wis. Stat. §§ 55.043 and 49.90. If the certifying agency has additional incident reporting requirements that are specified in their approved 1915(c) Waiver, then said agency shall follow that process as outlined per the waiver requirements.
 - d. The commission of a crime by a resident, upon learning the resident is a victim of a crime, or the arrest of any resident, household member, or staff.
 - e. Significant damage to the home or a resident's property from fire.

- f. The use or misuse of a restrictive measure without following the DHS-prescribed procedures (see DHS restrictive measure review process via the following link: <https://www.dhs.wisconsin.gov/waivermanual/app-r.htm>).

2. Who Must Receive Reports and Deadlines

- a. If the abuse, neglect, mistreatment, or any of the other events listed in Article VIII.D.1. are confirmed, the resident’s guardian, if any, shall be informed within 24 hours.
- b. If the abuse, neglect, mistreatment, or any of the other events in Article VIII.D.1. are either alleged or confirmed, the sponsor shall notify and then report to:
 - 1) The certifying agency. Notification shall be followed by a report on a form prescribed by the certifying agency within 24 hours. Providing a report under this subsection does not relieve the sponsor or operator or other staff of the obligation to report an incident to law enforcement authorities.
 - 2) The placing agency, if any, including the person’s care manager or IRIS program representative, within 24 hours.
 - 3) The designated elder abuse or adults at risk reporting agency and system that covers the location of this home.
 - 4) Law enforcement agencies, as appropriate.

3. Other Reports and Information Requested: The sponsor or operator shall affirmatively respond to DHS, placing agency, and certifying agency requests for information about residents, services, or operation of the AFH. Reporting in this context is defined as communicating to the requestor in a manner prescribed by that requestor. These agencies may require the sponsor, operator, or staff to follow such immediate notification with a report on a form prescribed by that agency. Failure to notify or report as prescribed in this section may be grounds for action by the certifying agency that may include revocation or non-renewal of certification. Such reporting does not relieve the operator, sponsor, or staff from any other reports required by DHS, by law, or rule.

E. Notification of Status Change

The operator or sponsor shall report any of the following to the certifying agency within seven days after occurrence unless a different reporting expectation is noted. Failure to report any of these required events may result in revocation of certification:

1. A substantive change in the type or amount of services the sponsor offers or is capable of offering to provide or actually provides; any significant change in the capability of the home caused by a person with specific skills leaving their employment, or reducing his or her availability to the home for service provision. These changes must be reported at least 30 days prior to the effective date of the change or as soon as possible if the sponsor had less or no notice of the change. The report shall state if a substitute provider of the dropped service must be arranged to address needs in a resident’s AFH service plan.

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2. A change in household members, including changes in staff who work in the home, new individuals who intend to stay in the home on a permanent basis, or people who have not expressed such an intent but who have resided in the home for more than 30 days.
3. A significant change in the physical environment of the residence at the time of the change or when the change is approved or permitted, whichever occurs first.
4. Any change in sponsor's or operator's employment status.
5. Any significant change in the sponsor's financial status if it impacts on the financial security requirements in these standards.
6. A change in the operator's/sponsor's and all household members' legal status, including being arrested, charged, or convicted of any crime.
7. Within one business day, a substantial change in the health status of the operator/sponsor if that change affects the operator's/sponsor's ability to provide the services and supports needed by all residents in a manner called for in the resident's AFH service plan.
8. Within one business day, a change in the health status of any household member if the change places residents at a health or safety risk.
9. A significant change in the home program statement, if a program statement is required.

F. Provide Access to the Home

The sponsor/operator shall provide the certifying agency, the placing agency, and DHS with immediate access to the home upon request for any purpose related to the granting or renewal of certification, for monitoring of the home, or for any purpose related to certification or resident service. Access shall be granted at any time without delay to evaluate the status of resident health, safety, or welfare. This may include unannounced visits. Failure of a sponsor or operator to grant access under this section may result in the commencement of immediate action to revoke the certification and/or termination of all placements in the home.

IX. Requirements for Resident Supports and Services

A. Introduction

The setting is integrated in and supports full access of people receiving Medicaid HCBS to the greater community, including 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 people not receiving Medicaid HCBS.

The sponsor or operator shall provide a safe, emotionally stable, homelike, and humane environment that encourages maximum resident self-direction, independence, and autonomy. In publicly funded programs, a care manager will typically execute the roles described in this section related to placement. Responsibilities of the care manager are defined in statute, administrative rule, and the contractual requirements of that program.

B. Preplacement: General Requirements

The person selects the setting . Setting options include nondisability-specific settings and an option for a private unit in a residential setting. The setting options are to be identified and documented in the overall person-centered service plan and are based on the person’s needs, preferences, and resources available for room and board.

1. **Preplacement Assessment:** Prior to the placement of the individual, an assessment must be conducted to determine whether the AFH is suitable to meet the prospective resident’s needs and preferences. This assessment is performed in accordance with the statutory, administrative rule or contractual requirements. At minimum, the assessment shall identify the person’s needs, abilities, and preferences. Placement decisions should consider the AFH’s ability to adequately support the individual’s needs in the following areas:
 - a. Identification of how the home will provide opportunities for the prospective resident to be in contact and interact with community friends and associates.
 - b. Identification of the resident’s needs for assistance with performance of activities of daily living and instrumental activities of daily living (including providing medications and medication management) and how to provide that assistance.
 - c. Assessment of current health status and identification of how the home will coordinate with the resident’s health care providers to assure that health maintenance needs are met.
 - d. Identification of the amount, frequency, and intensity of supervision required by the person to ensure safety in the home and/or community.
 - e. Identification of behavior support needs, if any.
 - f. Identification of how the home will accommodate and support access to and participation in work, vocational program or other structured daytime activities.
 - g. Identification of how the home will provide recreational/social opportunities and activities.
 - h. Identification of whether or not the home will provide or arrange transportation services needed to implement the person’s overall person-centered service plan, including transportation services that support other services and providers. If the

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home will provide transportation, the home shall also identify how this will be accomplished.

2. Provision of Information to Prospective Residents Prior to Placement

- a. A written informed consent to permit the sharing of information obtained in the individual's assessment with the prospective AFH shall be in place.
 - b. Prior to placement, the following information about the home shall be shared, either verbally or in writing, to prospective residents and their guardians, if any:
 - 1) A list of all household members, identifying any that are related to the sponsor, and a description of the roles, responsibilities, and expectations of the household members or staff.
 - 2) A description of any personal housekeeping the resident is expected to and will be requested to perform.
 - 3) The names and contact information of all parties involved in placement and oversight of this home, including the contact person from both the certifying and placement agencies.
 - 4) The home's program statement.
 - 5) A written summary of the amount, possible sources, and acceptable methods of payment for providing care and maintenance to a resident of the home, specifying any costs for which the resident will be liable.
 - 6) Information regarding significant past violations by the prospective AFH of any of these standards.
 - c. This information must be offered in writing and must be provided if the offer is accepted. If the prospective applicant declines to receive the information in writing, the placing agency shall note this in some way and retain this record. When written information is provided, a verbal explanation of the written materials must also be provided. The resident and/or the resident's guardian may request written information about the information described above at any time.
- 3. Preplacement Visit and Interview with Prospective Sponsor:** A preplacement visit may be arranged to the home for the prospective resident and the resident's guardian, if any. This visit may include:
- a. An opportunity for the prospective resident to meet the other current resident, if any, and other household members and staff who work in the home.
 - b. An opportunity to spend time in the house, and observe the household and its routines.
 - c. The visit may include an overnight stay.
 - d. A discussion of the religious and cultural beliefs, religious or cultural practices, and religious institution affiliation of the sponsor, prospective resident, and other household members.

C. Placement into the AFH

If the prospective resident and the resident's guardian, if any, select an AFH, the care manager shall do the following:

1. Develop the AFH Service Plan

- a. Plan Required—Each resident of an AFH shall have an AFH service plan. The plan shall be developed prior to or at the time of the resident’s placement in the home, except in urgent situations when the resident requires placement immediately. In this case, the AFH service plan shall be developed within seven days of placement.
- b. Basis of Plan—The AFH service plan shall be based on and address the needs and desired outcomes of the prospective resident learned during an assessment of the prospective resident performed by the placement agency.
- c. Involved Parties—At a minimum, the AFH service plan shall be developed jointly with the full participation of:
 - 1) The resident, the resident’s guardian, if any.
 - 2) Anyone else desired by the prospective resident or the prospective resident’s guardian.
 - 3) The home’s sponsor or operator.
 - 4) The placement agency, if any.
 - 5) Other AFH staff, as appropriate;The prospective resident, the prospective resident’s guardian, if any, the sponsor or operator, and the placement agency, if any, shall sign the plan and receive a copy.
- d. Goal of the AFH Service Plan—The AFH service plan shall describe how the AFH will assist the resident to achieve his or her highest level of functioning in all areas of life, including but not limited to performance of activities of daily living and instrumental activities of daily living, cognitive functioning, psychosocial functioning, social participation, and functioning.
- e. Contents—The AFH service plan shall contain the following:
 - 1) A description of the services that will be provided by the sponsor, any staff in or agents of the home, and any other providers who come to the home to provide services and supports to residents, and how these services relate to all of the needs and long-term care outcomes identified in the preplacement assessment.
 - 2) A description of how the resident will obtain access to places in the community, community activities, resources, and other planned services.
 - 3) A list and brief description of the services provided by other service providers that interact with the AFH, and how the services will be coordinated for the resident.
 - 4) A description of any personal housekeeping the resident agrees to perform or, if applicable, any compensated work the resident has agreed to do for the sponsor, including the terms of compensation.
- f. AFH service plan modifications—**Any modification of the AFH service plan must be supported by a specific assessed need and justified in the overall person-centered service plan. The following requirements must be documented in the overall person-centered service plan:**
 - 1) Identify a specific and individualized assessed need.
 - 2) Document the positive interventions and supports used prior to any modifications to the overall person-centered service plan.

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- 3) Document less intrusive methods of meeting the need that have been tried but did not work.
 - 4) Include a clear description of the condition that is directly proportionate to the specific assessed need.
 - 5) Include regular collection and review of data to measure the ongoing effectiveness of the modification.
 - 6) Include established time limits for period reviews to determine if the modification is still necessary or can be terminated.
 - 7) Include the informed consent of the person.
 - 8) Include an assurance that interventions and supports will cause no harm to the person.
- g. AFH Service Plan Update—The AFH service plan shall be reviewed at least once every six months to determine whether it continues to respond to the current needs of the resident. The review should be conducted by the resident, resident’s guardian, if any, others as identified by the resident or guardian, the placement agency, and the sponsor. The plan shall also be updated whenever the resident’s needs or preferences substantially change, or when requested by the resident or the resident’s guardian. The updated plan shall be signed by, and a copy provided to, the parties who were involved in the update. The AFH service plan update may be conducted in a face-to-face meeting based on the needs of the resident.

2. Develop the Agreement for Services

- a. Introduction—An AFH shall have an agreement for services with each resident of the home. The agreement for services should be completed prior to and by the time of the resident’s placement unless there is an urgent need for immediate placement. In urgent situations when the resident requires immediate placement, the agreement for services must be completed within seven days after placement. The term of the agreement shall be for not more than one calendar year.
- b. Involved Parties—At a minimum, the parties to the agreement shall include the resident, the resident’s guardian, if any, the sponsor or operator, and the placement agency. The agreement shall be signed by each of these parties and a copy given to all parties. The agreement shall be updated annually and shall take place in person.
- c. Contents—An agreement for services shall include:
 - 1) The AFH service plan developed pursuant to 1. above shall be incorporated by reference into the service agreement.
 - 2) The agreed-upon rate of payment, method used for billing by the placing agency, the agency’s process for paying the sponsor for the services and room/board provided to each resident, and the source of these funds. The method, frequency, and anticipated payment dates shall also be specified in the agreement.
 - 3) The agreement should make clear that **the unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the person receiving services and that the person has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the state,**

county, city, or other designated entity. A sponsor or provider may terminate a resident's placement only after giving 30 days' written notice to the resident, the resident's guardian, if any, the resident's service coordinator, and the placing agency.

- 4) A description of the space to be provided to the resident for sleeping, storage, and any other uses, along with a description of the typical number and times meals and snacks will be provided.
- 5) Any costs for which the resident will be liable and will be expected to pay, including the rate and cost per unit or procedure for any service not covered by the placing agency.
- 6) A statement of the resident's rights and the grievance process under Wis. Admin. Code ch. DHS 94 and Article X of these standards and of the program funding of the placement agency.
- 7) The agreement for services shall also include:
 - a) The agreement shall conform to any conflict of interest policies in these standards or in other rules imposed by placing agencies.
 - b) The agreement shall identify that if the resident wants funds held by the facility, the facility will make those funds immediately available to the resident upon request. Control of funds is decided by the resident or the resident's guardian, consistent with protective payee and guardianship authorities.
 - c) The agreement shall bar the sponsor and all staff from handling more than \$200 of resident discretionary funds at any one time. If resident discretionary funds exceed \$200, the sponsor shall notify a person or entity designated by the placing agency that shall make arrangements for the disposition of excess funds.
 - d) Resident discretionary funds shall not be commingled with any other person's funds, including those of the sponsor, and shall be kept separately.
 - e) If, by agreement, the sponsor is given control of any resident's funds, a methodology for monitoring and separately accounting for the expenditure of these funds for each resident shall be established.
 - f) A written explanation indicating the placement agency's requirements regarding termination, including who may initiate the process; required timeframes for termination notice, if any; reason for termination; and any other additional requirements.
 - g) The agreement shall be updated at least annually or whenever a change in any provision occurs.

3. Assure that the prospective resident has received the health screening

- a. Any new resident of an AFH must receive a health examination to identify health problems, as well as being screened for communicable disease, including tuberculosis. The examination or health screening for communicable disease may be provided by a primary care provider. The health examination and screening shall take place within 90 days prior to admission to the home or within 14 days after admission.

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- b. No examination is required for a person admitted for respite care unless the respite resident is expected to stay in the home for more than 28 consecutive days during any calendar year, in which case the requirements under (a) in this section apply.
- 4. Identify and facilitate provision of any resident-specific training for the sponsor, operator, or staff of the home.**
- 5. Give the resident and the resident's guardian, if any, the following information.**
 - a. A copy of these standards.
 - b. Information regarding how to file a complaint when the home or a service provider does not comply with these standards.

D. Supporting Resident Needs and Preferences

The sponsor or operator shall implement the AFH service plan, and assist each resident to plan and execute activities that address individual needs and preference. The sponsor or operator shall also provide residents with opportunities for community presence and participation consistent with the resident's overall person-centered service plan developed by the placement agency. These may include participation in cultural, religious, political, social, and intellectual activities of the resident's choice within the AFH and in the community. The sponsor or operator shall allow a resident to participate in any activities that the resident selects unless the activity involves an unacceptable risk of harm or is contrary to the resident's AFH service plan. Residents shall not be required or coerced to participate in any religious or other activities.

E. Services

The services provided by the sponsor, operator, and any staff in the AFH shall be those specified and described in each resident's AFH service plan as the responsibility of the sponsor, operator or staff person. The services the home is capable of providing, if needed, may be specified in the home's program statement and may include, but are not limited to:

1. Supervising or accompanying residents within the AFH or in the community when supervision is required.
2. Assisting a resident with or teaching a resident how to perform activities of daily living and/or instrumental activities of daily living.
3. Providing, arranging transportation, or transporting a resident to and from leisure and recreational activities, employment, medical and dental appointments, and other activities identified in the resident's AFH service plan.
4. Maintaining a log of all medical visits, written reports, and recommendations received at such visits about the resident in a manner consistent with state and federal legal requirements.

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5. Monitoring resident health by observing and documenting resident health status, any changes in each resident's health, and contacting health care providers when indicated. Taking a resident to health care providers when asked to by medical staff, when it appears necessary or in emergency situations
6. Notifying the placing agency, if any, and the resident's guardian, if any, of any significant changes in a resident's health status, any change in an existing medical condition, or any nonroutine medical treatment needed or received by the resident. Such reports shall include any life-threatening or disabling condition, serious illness, any illness lasting more than three days, any injury sustained by the resident that significantly impacts functioning after more than three days, or any additional situations as required by the placing agency.
7. Reporting a resident's absence from the AFH to the placing agency, and the resident's guardian, if any, immediately at the time the resident was first known to have been unaccounted for by the sponsor, operator or staff of the residence.
8. Monitoring residents for signs of abuse or neglect that have occurred while substitute providers or other providers were serving the resident. The sponsor or operator shall report suspected abuse or neglect to the adult protective service or adults at risk agency in the county where the AFH is located immediately, and to the certifying agency within 24 hours, or as required by the placement agency.
9. Assisting with administration or management of prescription medications.
10. Providing nutritious meals as specified in the resident's AFH service plan.
11. Coordinating with services that are brought to the AFH by other providers, including nursing care. A sponsor may arrange for or, if qualified, personally provide nursing care to residents if the care is needed and it is specified in the AFH service plan. A physician's written authorization shall be obtained if required.
12. Implementing behavioral support measures and/or behavior intervention plans as part of the implementation of a DHS-approved restrictive measures plan.
13. Providing services to temporary respite residents of community care homes in accordance with these standards.

F. Refusal of Services

The resident may refuse any service at any time unless it is a currently active court-ordered service.

G. Prescription Medications

If the AFH provides assistance with prescription medications, the sponsor, operator, or any staff involved in the provision of this assistance shall observe the requirements of this section.

1. **Storage:** Every prescription medication shall remain in the original container received from the pharmacy with a label permanently attached to the outside, which lists the name of the person for whom the medication is prescribed, the physician's name, the prescription number, the name and dosage of the medication, directions for use, the date the medication was issued, an expiration date of all time-dated medication, and the name, address, and telephone number of the pharmacy from which the medication was obtained. All prescription medication shall be securely stored as specified by the pharmacist on the label or with the instructions that came with the medication.
2. **Control and Administration**
 - a. A resident shall be permitted to refuse medication unless there has been a court order under Wis. Stat. § 51.20 or 55.14.
 - b. A resident shall control and administer his or her own medications except when the resident is not able to do so, as determined by the resident's physician, a court of law, when the resident or resident's guardian, if any, requests the sponsor's assistance, or when such assistance is part of the AFH service plan.
 - c. For the sponsor, operator, or staff to administer or assist a resident in administering any prescription medication, there shall be a written order from the physician who prescribed the medication. The written order shall specify under what conditions and what dosages medication may be administered.
 - d. If the sponsor, operator, or staff provides assistance with medications, the sponsor shall safely store the medication, help the resident take the correct dosage at the correct time, obtain refills as necessary, and communicate effectively with the resident's physician or pharmacist.
3. **Medication Records:** Records shall be kept by the sponsor, operator, or staff of all prescription medication controlled or administered by the sponsor, operator, or staff, and shall document the following:
 - a. The name of the resident.
 - b. The name of the medication.
 - c. The date and time the medication was given.
 - d. The dose taken.
 - e. The initials of the sponsor, operator or staff that indicate that the medication was given.
 - f. Any refusal by the resident to take any medication.

H. Meals and Nutrition

People have the freedom and support to control their own schedules and activities and have access to food at any time.

1. **Quantity and Variety:** The sponsor shall provide each resident with a quantity and variety of foods sufficient to meet the resident's nutritional needs and preferences, and to maintain his or her health.

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2. **Frequency:** The sponsor shall provide or assure that each resident receives three nutritious meals each day. Residents will have access to all foods and liquids at all times unless otherwise specified in the overall person-centered service plan, a behavior support plan, or an approved DHS restrictive measures plan. The sponsor shall accommodate the dietary needs of those residents with a physical/medical condition requiring more or less frequent meals. Some of the meals the resident receives may be provided through other programs (e.g., adult day care) in which the resident is participating.
3. **Sanitary Preparation and Storage of Food:** Food shall be prepared and stored in a sanitary manner.
4. **Dining Area:** Residents shall be given the opportunity, if they choose, to routinely be served their meals in a dining area with other household members who choose this option.
5. **Special Dietary Needs:** Meals prepared by the sponsor or other household members shall take into account resident's special physical and religious dietary needs. The sponsor or operator shall follow any primary care provider-ordered special diets.

I. Use of an AFH for Respite Care

Community care homes certified under these standards may provide respite care if, at the time of certification, the certifying agency determines that the home meets all of the conditions related to the physical home space and staffing needs provided in this section. The use of the home for respite care shall be reflected in the community care home's program statement. If a community care home seeks to add respite care as a service after it has been operating and has residents, it shall abide by the provisions in this section.

Traditional AFHs certified under these standards may provide respite care if the home meets all of the conditions in this section and if the certifying agency approves the home for respite care via the exception process detailed in Article II of these standards. If obtained, the exception covers only that sponsor and that address. Exceptions may be granted with conditions.

1. **Number of Respite Residents and People Receiving Services from the Home:**

There may be no more than two respite residents or more than a total of four adults or children receiving services for compensation in and by the AFH's sponsor, operator, and staff. If any of the residents are children, it must also be licensed as a children's foster home. Consideration must be made for the residents that live in the home permanently to ensure the health and safety of all residents.
2. **Notification of Residents:** If the AFH requests to provide respite care, it must have, revise, or create a program statement that must include provisions describing that AFH's respite care program. Prior to a prospective resident's placement in the AFH, a prospective resident shall be informed that respite care to other individuals is a provided service. If the sponsor decides to provide respite care after current residents

were placed, it must create or amend the AFH's program statement to accurately reflect this service and also give current residents a 90-day notice before respite care may be provided in the AFH.

- 3. Adequate Space and Facilities Required:** If the sponsor chooses to propose the use of the AFH for one or two additional respite residents, there must be sufficient physical space, including space in sleeping, living, bathroom, eating, and storage areas to accommodate the additional respite residents in the AFH. No permanent resident may be required to share a room or to move to a different room to accommodate a respite resident. There must be sufficient furniture and other equipment to accommodate all residents, including the respite residents.
- 4. Respite Care Service Plans for Respite Residents:** If the AFH is permitted to provide respite care, each respite resident shall have a respite care service plan that is based on a recent assessment of needs that is consistent with the person's existing person-centered service plan, and adequately addresses the person's need for respite support, supervision, and service in the AFH. The respite care service plan is the plan specifically developed by and for the respite provider, and shall adopt all relevant provisions of the person-centered service plan.
- 5. Adequate Staff Support:** If the AFH is permitted to provide respite care, there shall be an adequate number of staff at all times to assure the health, safety, and welfare of each resident of the home, including respite residents, and to effectively implement each resident's AFH service plan and each respite resident's service plan.
- 6. Privacy:** There must be no significant reduction in the privacy any permanent resident experiences with respect to his or her sleeping area or other private spaces within the AFH. Respite residents shall be afforded a level of privacy consistent with other residents and their needs.
- 7. Duration of a Resident Stay:** Respite care stays in an AFH may not exceed 28 consecutive days. Respite care is a temporary situation and is not to be used as a permanent placement.
- 8. Maximum Number of Days the Home May Be Used for Respite Care:** The maximum number of days per year when additional respite residents are staying in the AFH is not greater than 90 days per calendar year. This provision may be waived in the event of an emergency need for someone to be placed due to others losing access to a safe home due to fires, floods, tornados, or other natural disasters impacting the community or region.
- 9. Exception Application Process for Respite Care by AFHs:** This section applies to traditional AFHs and community care homes. Community care homes shall only comply with subd. (c) of this subd.
 - a. Sponsor Request—If the sponsor wishes to provide respite care, the sponsor shall request the exception to the certifying agency to permit the AFH to provide

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respite care. Approval of this exception shall be obtained from the certifying agency before the sponsor accepts individuals into the home for respite care.

- b. **Certifying Agency Respite Care Policy**—The certifying agency shall have a policy specifying the circumstances under which it would or would not permit an AFH to provide respite care. This policy shall be uniformly applied to all homes that are not community care homes. The policy may also have criteria for granting of exceptions per Article II of these standards in addition to criteria imposed by the certifying agency. The policy shall contain a provision that requires an AFH that wishes to provide respite care to conform to all the provisions in these standards related to respite care.
- c. **Criteria for Approval of Requests**—The certifying agency shall apply the following criteria to determine if the request to provide respite care shall be approved:
 - 1) The size of the AFH and the common areas are large enough so that residents, household members, and the prospective respite residents will not be crowded or have significantly added difficulty in using any of the facilities.
 - 2) The sponsor, operator, any staff person, and substitute providers shall have the ability to respond to the needs of all residents with the additional respite residents under their care.
 - 3) The intent for the respite residents is to use this AFH on a recurring basis so the current residents can develop a relationship with the respite residents. Respite care in an AFH should not entail different respite residents each time respite care is provided.
 - 4) The number of days per year when additional respite residents are staying in the AFH is not greater than 90 days per calendar year.
 - 5) Any exception that is granted by the certifying agency must be reported to DHS using the process and reporting requirements stated in Article II of these standards.

X. Requirements for Home and Community-Based Settings

A. Introduction

All home and community-based settings (HCBS) used by participants in Medicaid home and community-based waiver programs under Section 1915(c) must comply with 42 C.F.R. § 441.301(c)(4) by meeting the criteria below. Prior to certifying any setting, the certifying agency must ensure through an on-site visit, documentation, and recordkeeping that each setting meets the following minimum criteria:

- Is integrated in, and supports full access to, the greater community.
- Is selected by the person from among setting options.
- Ensures individual rights of privacy, dignity, and respect, and freedom from coercion and restraint.
- Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including, but not limited to, daily activities, physical environment, and people with whom the person interacts.
- Facilitates individual choice regarding services and supports and who provides them.

B. Settings That Are Not Home and Community-Based

A setting located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment, in a building on the grounds of, or immediately adjacent to, a public institution, or in any other setting that isolates people receiving Medicaid HCBS from the broader community of people not receiving Medicaid HCBS is considered an institution unless the Secretary determines, through heightened scrutiny from information presented by the state or other parties, that the setting does not have the qualities of an institution and that the setting does have the qualities of home and community-based settings.

C. Expectations of Compliance

Home and community-based setting requirements must meet the following DHS-specific benchmarks to be certified as a compliant setting:

1. Only compliant settings may provide services to HCBS waiver participants.
2. Certifying agencies are required to confirm compliance prior to approving a new or renewal application for certification.
3. Compliance determinations must be documented on forms provided by DHS and maintained for the required record retention period.
4. All records regarding the certification of the AFH must be made available to DHS upon request.
5. All HCBS compliance determinations must be reported to DHS monthly in a format and process specified by DHS.

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Additional information on HCBS compliance can be found at <https://www.dhs.wisconsin.gov/hcbs/index.htm>. Questions about HCBS compliance should be emailed to dhshcbssettings@dhs.wisconsin.gov.

XI. Resident Rights

A. Introduction

Residents of AFHs retain all of their civil, legal, and human rights. This includes their right to be served by the same governmental services as others in the community such as police, fire, rescue, building inspection, public health, protective services, and other services. Sponsors, placing agencies, certifying agencies, guardians, family members, and others should use these services when appropriate. All residents of AFHs have the rights enumerated in this Article. People served in AFHs who meet the definition of “patient” in Wis. Stat. § 51.01(1) are entitled to have the rights and processes enumerated in § 51.61, Wis. Admin. Code ch. DHS 94, and 42 CFR § 441.301(c)(4). All people served in AFHs, including those covered by § 51.61 and DHS 94 have all of the rights enumerated in this Article as well, including the right to file grievances. This gives residents of AFHs the choice of which grievance process to use should they believe their rights were violated.

B. Notification of Rights

Before or upon placement in the home, the resident shall be notified orally and given a written copy of his or her rights as detailed in this Article. Oral notification may be accomplished by showing the resident a video about these rights. Notification is not required before placement made under emergency conditions, but as soon as possible after placement. Residents shall be re-notified of their rights annually.

C. Assistance in the Exercise of Rights

The sponsor or operator and the placing agency shall assist residents in the exercise of all rights specified in this Article.

No person may be required to waive any rights specified in this Article as a condition of placement or receipt of any service.

D. Rights

A resident of an AFH shall have all of the following rights:

1. To be free from physical, sexual, verbal, or emotional abuse or neglect.
2. To be treated with courtesy, *dignity, and respect* in full recognition of the resident’s individuality.
3. To have physical and personal privacy when receiving treatment and services; in the living arrangement; in caring for personal needs such as toileting, bathing, and dressing; and when he or she desires time alone. The resident, resident’s room, any other area in which the resident has a reasonable expectation of privacy, and the personal belongings of a resident shall be free of being searched without the resident’s permission or permission of the resident’s guardian, if any, except when there is probable cause to believe that the resident possesses contraband or items that may be dangerous to the resident or others. The resident shall be present for the

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- search and the probable cause shall be defined, explained to the resident, and documented in the resident's record.
4. To have his or her records kept confidential in accordance with Wis. Stat. § 51.30, and Wis. Admin. Code ch. DHS 92 and any other applicable state or federal law, rule, or program requirement.
 5. To be treated as mentally competent unless there has been a court determination of incompetency under Wis. Stat. § 54.10. A resident who has been adjudicated incompetent has a right to have his or her guardian fully informed and involved in all aspects of his or her support and service in the AFH. A resident who has been adjudicated incompetent shall be allowed participation in decision-making to the extent that the resident is capable.
 6. To have the opportunity to make decisions relating to services, activities, and other aspects of life in the AFH and community. No curfew, rule or other restrictions on a resident's self-determination may be imposed unless specifically identified in the resident's AFH service plan and the overall person-centered plan.
 7. To receive timely services from the AFH providers that fully respond to the resident's needs to the extent possible, including timely access to health care services provided by appropriate health care professionals.
 8. To ***control personal resources***, manage his or her own personal finances, or choose a separate service provider to perform this function; personal finances include any personal allowances under federal or state programs. A resident, if competent, or, if not competent, the resident's guardian or representative payee, may make a written delegation of responsibility for management of certain portions of resident's personal finances to someone of the resident's, payee's, or guardian's choosing.
 9. To retain and use personal clothing and other personal possessions in a reasonably secure manner.
 10. To be provided access to a reasonable amount of individual secure storage space for his or her private use(s) for possessions and clothing.
 11. To be permitted to make and receive a reasonable number of telephone calls of reasonable duration and in privacy.
 12. To receive and send sealed, unopened mail, including packages. The sponsor or operator shall give mail to residents on the day it is received or as soon as possible thereafter, unless the operator has reasonable cause to believe that the mail being sent or received contains contraband. If the mail is believed to contain contraband, a resident's mail may be opened by the sponsor or operator but only in the presence of the resident. Staff shall not read mail in any case.

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13. To have private visitors *at any time*, have adequate time and private space for visits, to meet with people of the resident's choosing, and to choose social and community activities in which to participate.
14. To participate or to decline to participate in religious activities of the resident's choosing. No resident shall be required to engage in any religious activity.
15. To receive prompt and adequate treatment.
16. To receive all treatments prescribed by the resident's physician, and to refuse any form of treatment unless the treatment has been ordered by a court. The written informed consent of the resident or resident's guardian is required for any treatment administered by the operator or any staff of the AFH.
17. To have a safe environment in which to live. The AFH shall safeguard residents from environmental hazards, including conditions that are hazardous to anyone and/or conditions hazardous to a particular resident.
18. To be free from financial exploitation and misappropriation of funds or property.
19. To be free from seclusion, **coercion**, and restraints.
 - a. To be free from seclusion, physical and chemical restraints, including the use of an as-necessary (PRN) order for controlling acute, episodic behavior, and other restrictive measures;
 - b. Emergency or nonemergency use of restrictive measures, including restraints, may be permitted only if approved by DHS according to the [Guidelines and Requirements for the Use of Restrictive Measures](#). Use of restrictive measures under emergency conditions as defined in these guidelines must be reported to the placing agency and the certifying agency by the next business day with a description of what happened, the actions taken by the AFH's operator or staff, and the outcome of the incident.
20. Each resident shall be provided the least restrictive conditions that allow the maximum amount of personal and physical freedom.
21. All residents shall be provided prompt and adequate services, habilitation or rehabilitation, supports, and community services consistent with the resident's assessed needs and AFH service plan.
22. No resident may be required by the operator to perform labor which is of any financial benefit to the AFH unless the resident is fairly compensated for this labor and the resident and the resident's guardian, if any, agree to this voluntarily. This does not apply to labor involving a fair share of routine, shared household chores.

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23. To receive all prescribed medications in the dosage and at the intervals prescribed by the resident's physician, and to refuse medication unless there has been a court order under Wis. Stat. § 51.61(1)(g) or 55.14.
24. To be fully informed, verbally and in writing, of all services and charges for the services. This shall be done before or at the time of admission, and 30 days prior to any change in costs for any charge to the resident including charges for room and board.
25. The resident and the resident's guardian, if any, has the right to be informed of all of the rights enumerated in this Article and all other rights that apply to that resident under state and federal laws and rules. This includes the right to be informed of all grievance procedures available to a resident of the AFH.
26. To have access to a grievance procedure as described under Article XI.F., when a resident believes that any rights listed in this Article have been violated.
27. In addition to rights under these standards, there may be other applicable rights with which the adult family sponsor is required to comply. Applicable statutes and rules relating to resident rights include, but are not limited to: Wis. Stat. chs. 46, 49, and 55, and § 51.61, Wis. Admin. Code chs. DHS 10, 92, and 94, and 42 C.F.R. § 441.301(c)(4). The certifying agency is responsible for ensuring that these rights have been discussed with the AFH sponsor and that the resident or guardian, if any, has been informed of the provisions of those sections that apply.

E. Limitation or Denial of Rights

No resident right may be denied or limited except as provided in this section.

- 1. Rights That Can be Denied or Limited:** The only rights in Article XI.D. that may be denied or limited are 3 (privacy), 9 (clothing), 10 (storage), 11 (telephone), and 13 (visitors); see Article XI. D.
- 2. Reasons and Conditions for Rights Denial or Limitation**
 - a. Good cause for denial or limitation of a right exists only when the sponsor or operator has reason to believe the exercise of the right would create a security problem, adversely affect the resident's services, or seriously interfere with the rights or safety of others.
 - b. Denial of a right may only be made when there are documented reasons to believe there is not a less-restrictive way of protecting the threatened security, service, or safety interests.
 - c. No right may be denied when a limitation can accomplish the stated purpose; no limitation may be more stringent than necessary to accomplish the purpose.
 - d. No right may be denied or limited without the approval and participation of the placement agency. If there is no placement agency, this function shall be performed by the certifying agency.

3. **Notice:** At the time of the denial or limitation, written notice must be provided to the resident and the resident's guardian, if he or she has one. A copy of the notice must be placed in the resident's file. For residents served by an HCBS waiver program, the denial or limitation of rights must be justified and documented in the resident's overall person-centered plan. The written notice must:
 - a. State the specific denial or limitation of rights.
 - b. State the expected duration of denial or limitation.
 - c. State the specific reason for the denial or limitation.
 - d. Inform the resident and the resident's guardian, if he or she has one, that the sponsor or operator and the placement agency will provide an informal hearing or a meeting about limit or denial of the right at the resident's or guardian's request.
 - e. State the specific conditions required for restoring or granting the right at issue.
 - f. Inform a resident whose rights are limited or denied in accordance with this subsection that the resident may file a grievance concerning the limitation or denial.
4. **Hearing or Meeting:** The placement agency and sponsor or operator shall hold an informal hearing or a meeting within three days after receiving a request for a hearing or meeting about the limitation or denial or rights.
5. **Review Schedule:** Rights limitations or denials shall be reviewed on a reasonable schedule to decide if they are still necessary. Limits on telephone calls or visitors shall be reviewed weekly. All other limitations or denials shall be reviewed at least monthly. Exceptions to monthly review may be made where the limitation or denial is part of a resident's overall person-centered service plan and there is a regular review schedule. The schedule for review shall be documented. Rare cases, such as a limitation on access to a possession, which may be deemed counter-therapeutic to the individual, may be reviewed annually. In no case shall a review schedule be longer than annually.

F. Right to File a Grievance

A resident or the resident's guardian, if any, has the right to file a grievance or request a meeting if he or she believes that a right that applies to the resident or a provision of these standards has been violated. A resident or the resident's guardian, if any, may also have the right to file a grievance under any other applicable law or rule that applies to that resident. The resident and the resident's guardian, if any, may choose the procedure under which to file a grievance, and is not restricted by that choice from accessing any other applicable grievance procedure under which that resident is covered. In addition to the rights described in this subsection, AFH residents who participate in publicly funded long-term care programs have the right to grievance and appeal decisions made by the agency that administers the program in which they are enrolled.

G. Right to Be Free of Coercion

Any form of coercion to discourage or prevent a resident or the resident's guardian, if any, from exercising any of the rights under this section, including the right to file a grievance, is prohibited. Any form of coercion or retaliation by the sponsor, operator,

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staff, personnel from the sponsoring agency, or any other agent of the AFH against a resident or the resident's guardian for exercising any of the rights in this section is prohibited. This includes a prohibition against coercion or retaliation against a service provider who assists a resident or the resident's guardian in exercising any of the resident's rights in this section. Violation of this provision may be grounds for termination of certification of the AFH or the contract with the certification/funding agency.

XII. Records and Reports

A. Maintaining Resident Records

The sponsor or operator shall keep all resident records confidential, maintain a record for each resident, and store it in secure location within the AFH. The record shall be kept confidential in accordance with all applicable state and federal laws, regulations, and program requirements.

B. Medical Records

Within the limits of applicable confidentiality laws and rules, sponsors or operators shall keep a log of all medical, dental, and other health care examinations and services obtained by each resident and retain any written reports received from the providers of these examinations in an appropriate storage file. The log of medical examinations should include the date of the service, the name and contact information of the provider, the reason for the exam, and the results, if any, given by the provider.

C. Access to Records

A resident or the resident's guardian, if any, shall be given access to the resident's record upon request.

D. Contents

Each record shall contain:

1. The resident's name and date of birth.
2. If the resident has a guardian or activated power of attorney (POA), the name, address, telephone numbers, and email address of the guardian.
3. Any other people identified by the resident.
4. The name, address, and telephone number of the resident's primary care provider, and all other individuals who shall be notified in the event of an emergency.
5. The name, address, and telephone number of the placing agency, if any, and the resident's support and service coordinator or care manager.
6. Medical insurance and/or Medicare and Medicaid identification numbers and the name(s) of the resident's primary care provider, other health care staff used by the resident, and the name and contact information of the pharmacy(ies) that the resident uses.
7. All available medical reports received during the past two calendar years at any primary care professional, dentist, or other professional health care provider visit during the period the resident has been placed in this AFH.
8. The resident's current AFH service plan.

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9. The most current agreement for services between the resident and the AFH.
10. Documentation that the resident and the resident's guardian, if any, have been properly notified of rights and grievance procedures in accordance with Wis. Admin. Code § DHS 94.04, if that rule applies, the grievance procedure under Wis. Admin. Code § DHS 10.52, if that applies, and the grievance procedure described in Article XI of these standards.

E. Records Retention and Disposal

Record retention and disposal policy shall conform to the requirements of the placing agency program funding the placement. If this does not apply, records shall be maintained for not less than 10 years after a resident leaves the home or dies.