

Agreement Outlining Minimum Standards for PASSE HCBS Providers

Ensuring the health and safety of individuals who are enrolled in the Arkansas Medicaid PASSE program and are served through the Arkansas Community Employment Supports (CES) 1915(c) waiver and state plan amendment authority under 1915(i) Arkansas Community Independence Services is a shared responsibility among the Arkansas Department of Human Services (DHS), each Provider-led Arkansas Shared Savings Entity (PASSE), and each provider of home and community based services (“HCBS provider.”)

Accordingly, DHS has developed the attached Agreement for use by each PASSE and their PASSE HCBS providers to be placed in their manuals for those performing home and community based services.

This Agreement is based on former requirements under the CES waiver. Each PASSE must include the content of each of the sections although they may modify the format according to their individual manual specifications. These are minimum standards in addition to federal, state, and local statutes, acts and regulations that apply and any other qualifications established by the PASSE.

Until PASSE HCBS providers are a registered and fully functional provider type in MMIS, the PASSE is responsible for the annual certification of CES Waiver Providers. All other provisions, except annual certification, outlined in this Agreement apply to all providers providing home and community based services including the Arkansas Community Independence Program.

SECTION	100	ORGANIZATIONAL/MANAGEMENT REQUIREMENTS OF PASSE HOME AND COMMUNITY BASED PROVIDERS AND ANNUAL CERTIFICATION REQUIREMENTS
SECTION	200	HIRING PROCEDURES AND PERSONNEL RECORD MAINTENANCE
SECTION	300	INCIDENT REPORTING
SECTION	400	BENEFICIARY AND LEGAL GUARDIAN RIGHTS
SECTION	500	BENEFICIARY HEALTH AND SAFETY AND LEGAL RIGHTS

100 ORGANIZATIONAL/MANAGEMENT REQUIREMENTS AND SOLICITATION

Organizational Requirements

Annual Certification: The PASSE is responsible for the credentialing of PASSE home and community-based service (HCBS) providers.

All HCBS providers must be enrolled in Arkansas Medicaid as an HCBS provider. In order to enroll in Arkansas Medicaid as a PASSE Home and Community Based Service provider, the HCBS provider must be credentialed as such by the PASSE.

- a. The PASSE must submit to DHS for approval the method by which the PASSE will credential HCBS providers.
 - b. The PASSE is required to submit a yearly attestation that all PASSE HCBS providers have been certified on an annual basis. DHS will audit the PASSE's records to ensure compliance with the annual certification requirement. Any PASSE HCBS provider discovered not to have been certified annually will be disenrolled as a Medicaid provider. Failing to annually certify HCBS providers that are enrolled with Medicaid may lead to sanctions by DHS in accordance with Section 14.1.
 - c. The PASSE's credentialing process must be approved by DHS and include the following, at a minimum, for HCBS providers:
 - i. Audit requirements;
 - ii. Inspection requirements;
 - iii. Complaint resolution process;
 - iv. Performing provider requirements; and
 - v. Any other information required for the PASSE to credential an HCBS provider as such.
1. Provider Governing Documents Available for Inspection: All governing documents, policies, procedures, or other equivalent operating documents of a PASSE HCBS provider shall at all times be readily available for PASSE and DHS inspection and review upon request.
 2. Legal Existence and Good Standing: A PASSE HCBS provider shall at all times be duly organized, validly existing and in good standing as a legal entity under the laws of the State of Arkansas, with the power and authority under the appropriate federal, state or local statutes to own and operate its business as presently conducted.

Management Requirements

1. Point of Contact: Each PASSE HCBS provider must appoint a single member of management as the point of contact for all Quality Assurance matters. The DHS PASSE unit, in conjunction with the PASSE, will oversee compliance with the below minimum standards.
2. Executive Director. Each PASSE HCBS provider must appoint an Executive Director, or other titled officer position, that is vested with the authority and responsibility of overseeing all day-to-day operations.

200 HIRING PROCEDURES & PERSONNEL RECORD MAINTENANCE

Hiring Procedures and Required Personnel Records

A. Prior to Employment

1. The PASSE HCBS Provider must obtain and verify each of the following from an applicant prior to employment:
2. A completed job application that includes all the applicant's required current and up-to-date credentials.
3. A signed criminal conviction statement.
4. All required criminal background checks, as outlined in A.C.A. § 20-38-101 et. seq. and §20-48-812, or any applicable successor statutes. The PASSE and DHS require criminal background checks for the applicant, their spouse, and any children or other adult over the age of eighteen (18) if a beneficiary is to be permitted to stay overnight in an applicant's residence.
5. A signed declaration of truth of statement.
6. Completed reference checks.
7. A successfully passed drug screen.
8. If the applicant is applying for a position where transportation is required, a current and valid driver's license or a commercial driver's license (CDL), as appropriate.

B. Post-Employment

The PASSE HCBS provider shall obtain and verify within thirty (30) days of an applicant's employment:

1. A completed Adult Maltreatment Central Registry check (see A.C.A. § 12-12-1716, or any successor statutes), or a second submission request if a response has not been received. An Adult Maltreatment Central Registry check must be completed for the employee, their spouse, and any children or other adult over the age of eighteen (18) that resides in a residence where a beneficiary is approved and permitted to stay overnight.

2. A completed Child Maltreatment Central Registry check (A.C.A. § 12-18-901 et. seq., or any successor statutes), or a second submission request if a response has not been received. A Child Maltreatment Central Registry check must be completed for the employee, their spouse, and any children or other adult over the age of eighteen (18) that resides in a residence where a beneficiary is approved and permitted to stay overnight.
3. A successfully passed criminal background check for the employee, their spouse, and any children or other adult over the age of eighteen (18) residing in a residence where a beneficiary is approved and permitted to stay overnight.

300 INCIDENT REPORTING

Reportable Incidents

PASSE HCBS providers must submit an incident report to the DHS PASSE Quality Assurance unit and the appropriate PASSE, using the reporting form via secure e-mail upon the occurrence of any one of the following events:

1. Death of beneficiary.*
2. The use of any restrictive intervention, including seclusion, or physical, chemical, or mechanical restraint on a beneficiary.
3. Suspected maltreatment or abuse of a beneficiary.
4. Any injury to a beneficiary that:
 - Requires the attention of an Emergency Medical Technician, a paramedic, or physician
 - May cause death
 - May result in a substantial permanent impairment
 - Requires hospitalization
5. Threatened or attempted suicide by a beneficiary.
6. The arrest of a beneficiary, or commission of any crime by a beneficiary.
7. Any situation in which the whereabouts of a beneficiary is unknown for more than two (2) hours (i.e. elopement and/or wandering), or where services are interrupted for more than two (2) hours.
8. Any event where a staff member threatens a beneficiary.

9. Unexpected occurrences involving actual or risk of death or serious physical or psychological injury to a beneficiary.*
10. Medication errors made by staff that cause or have the potential to cause serious injury or illness to a beneficiary, including, but not limited to, loss of medication, unavailability of medication, falsification of medication logs, theft of medication, a missed dose, wrong dose, a dose being administered at the wrong time, by the wrong route, and the administration of the wrong medication.
11. Any violation of a beneficiary's rights that jeopardizes the health, safety, or quality of life of the beneficiary.
12. Any incident involving property destruction by a beneficiary.
13. Vehicular accidents involving a beneficiary.
14. Biohazard incidents involving a beneficiary.
15. An arrest or conviction of a staff member providing direct care services.
16. Any use or possession of a non-prescribed medication or an illicit substance by a beneficiary.
17. Any other event that might have resulted in harm to a beneficiary or could have reasonably endangered the health, safety, or welfare of the beneficiary.

In addition to submitting incident reports for the reportable incidents described above to the DHS PASSE Quality Assurance unit using the reporting form via secure e-mail, PASSE HCBS providers are to also forward a copy of each incident report to the client's assigned PASSE. If the incident involves an employee of a PASSE HCBS provider and you are in network at multiple PASSEs, the incident must be sent all.

Incident reports involving unexpected occurrences involving actual or risk of death or serious physical or psychological injury to a beneficiary are considered sentinel events and will be investigated by the Department of Human Services.

In addition to sentinel events, the Department of Human Services will also investigate if the network provider and/or network provider staff, is suspected to be at fault.

All other incidents will be investigated by the appropriate PASSE.

Reporting Timeframes

A. Immediate Reporting

Providers must report the following incidents to the DHS PASSE Quality Assurance unit emergency number (501) 371-1329 within one (1) hour of occurrence, regardless of hour as well as the on call emergency number for the appropriate PASSE:

- A death not related to the natural course of the patient's illness
- Serious physical or psychological injury to a beneficiary

B. Incidents Involving Potential Publicity

Incidents, regardless of category, that a PASSE HCBS provider should reasonably know might be of interest to the public and/or media must be immediately reported to the DHS PASSE Quality Assurance unit and the appropriate PASSE.

C. All Other Incident Reports

Except as otherwise provided above in subsection A and B, all reportable incidents must be reported to the DHS PASSE Quality Assurance unit, and the appropriate PASSE, using the automated PASSE HCSB Incident Report Form via secure e-mail no later than two (2) days following the incident. Any incident that occurs on a Friday is still considered timely if reported by the Monday immediately following.

Required Incident Report Contents

A. Initial Incident Report: Each initial incident report filed by a PASSE HCBS provider must contain the following information:

1. Date of the incident
2. Detailed description of the accident/injury
3. Time of the incident
4. Location of incident
5. Persons involved in the incident
6. Other agencies contacted regarding incident, and the name of the individual in the agency that was contacted
7. Whether the guardian was notified of the incident and time of notification,
8. Whether the police were involved, and if so, a detailed description of their involvement
9. Any action taken by Provider or staff of Provider, both at the time of the incident and subsequent to the incident

10. Any expected follow-up
11. Name of person that prepared the report

When applicable, the PASSE HCBS provider shall notify the parent or legal guardian of the beneficiary any time an incident report is submitted.

- B. Follow-up Incident Reports: Information that is not available at the time of the initial incident report filing must be submitted in follow-up or final incident reports. These reports should be submitted in the same manner as soon as the additional information becomes available.
- The initial report should be resubmitted with the “follow-up” or “final” report areas checked and dated in the appropriate space on the incident report form.
 - The current date should precede the new information in the text/narrative sections to differentiate follow-up information from the information originally submitted.
 - A new PASSE Incident Report Form should be submitted for follow-up and final reports only when there is insufficient space on the original form. Whenever a new form is submitted, the date of the original written report must be included for cross-referencing.

Mandated Reporters

The Arkansas Child Maltreatment Act and the Arkansas Adult Maltreatment Act deem all staff of PASSE HCBS providers to be mandated reporters of any suspected adult or child abuse, neglect, exploitation, and maltreatment. Failure on the part of a PASSE HCBS provider to properly report suspected abuse, neglect, exploitation, and maltreatment to the appropriate hotline is a violation of these minimum standards.

400 BENEFICIARY AND LEGAL GUARDIAN RIGHTS

Beneficiary/Guardian Rights Policy

Each PASSE HCBS provider must implement policies that enumerate in clear and understandable language each beneficiary’s rights and the rights of the legal guardian of each beneficiary. The PASSE HCBS provider must take reasonable steps to ensure beneficiaries and their legal guardians are: (i) informed of their rights; (ii) provided copies of the policies enumerating their rights prior to the initiation of services and at any other time upon request; and (iii) that the information is

transmitted in a manner that the beneficiary and their legal guardian are able to read and understand.

Beneficiary Rights

Each PASSE HCBS provider must, at a minimum, ensure the following beneficiary rights:

1. The right to be free from:
 - physical or psychological abuse or neglect
 - retaliation
 - coercion
 - humiliation
 - financial exploitation

The PASSE HCBS provider must ensure that the application of corporal punishment to beneficiaries is prohibited. “Corporal punishment” refers to the application of painful stimuli to the body in an attempt to terminate behavior or as a penalty for behavior.

2. The freedom to control their own financial resources.
3. The freedom to receive, purchase, possess, and use individual personal property. Any restriction on this right must be supported by an assessed need and justified in the beneficiary’s person centered service plan (“PCSP”).
4. The freedom to actively and meaningfully make decisions affecting their life and access pertinent information in a timely manner to facilitate such decision making.
5. The right to privacy. Any restriction on this right must be supported by an assessed need and justified in the PCSP.
6. The right to choice of roommate when sharing a bedroom.
7. The freedom to associate and communicate publicly or privately with any person or group of people of the beneficiary’s choice at any time. Any restriction on this right must be supported by an assessed need and justified in the PCSP.
8. The freedom to have visitors of their choosing at any time.
9. The freedom of religion.
10. The right to be free from the inappropriate use of a physical or chemical restraint, medication, or isolation as punishment.
11. The opportunity to seek employment and work in competitive, integrated settings.
12. Freedom from being required to work without compensation.

13. The right to be treated with dignity and respect.
14. The right to receive due process.
 - PASSE HCBS providers must ensure beneficiaries have access to legal entities for appropriate and adequate representation, advocacy support services, and must adhere to research and ethics guidelines (45 CFR § 46.101 et. seq.).
 - PASSE HCBS provider rules may not contain provisions that result in the unfair, arbitrary, or unreasonable treatment of a beneficiary.
15. The right to contest and appeal PASSE HCBS provider decisions affecting the beneficiary.
16. The right to request and receive an investigation in connection with an alleged infringement of a beneficiary's rights.
17. The freedom to access their own records, including information regarding how their funds are accessed and utilized and what services were billed for on the beneficiary's behalf. Additionally, all beneficiaries and legal guardians must be informed of how to access the beneficiary's service records and the PASSE HCBS provider must ensure that appropriate equipment is available for them to obtain such access.
 - Beneficiaries may not be prohibited from having access to their own service records, unless a specific state law indicates otherwise.
18. The right to live in a manner that optimizes, but does not regiment, beneficiary initiative, autonomy, and independence in making life choices, including but not limited to:
 - Choice of HCBS providers
 - Service delivery
 - Release of information
 - Composition of the service delivery team
 - Involvement in research projects, if applicable
 - Daily activities
 - Physical environment
 - With whom to interact
19. Other legal and constitutional rights.

Financial Safeguards

This Section applies if the PASSE HCBS provider serves as a representative payee of a beneficiary, is involved in managing the funds of the beneficiary, receives benefits on behalf of the beneficiary, or temporarily safeguards funds or personal property for the beneficiary.

A. Financial Safeguards and Procedures

The PASSE HCBS provider must demonstrate that there is a system in place to protect the financial interests of all beneficiaries. PASSE HCBS provider personnel that have any involvement with beneficiary funds and the beneficiary or their legal guardian must receive a copy of the PASSE HCBS provider's Financial Safeguards Policies and Procedures.

1. The PASSE HCBS provider is responsible for ensuring that each beneficiary's funds are used solely for the benefit of the beneficiary.
2. The PASSE HCBS provider must ensure that the beneficiary is able to receive the benefit of those items/services for which they are paying. By way of illustration, if a beneficiary is paying for internet, the beneficiary should have a device with which to access the internet; if the beneficiary pays for a cell phone plan, then the beneficiary should have a functioning cell phone.

B. Access to Financial Records

Beneficiaries and their legal guardians must have access to financial records concerning the beneficiary's account/funds at all times.

C. Financial Safeguards Policy and Procedures

The PASSE HCBS provider must implement policies that define:

1. How beneficiaries will provide informed consent for the expenditure of their funds.
2. How beneficiaries will access their financial records.
3. How beneficiary accounts/funds will be segregated and maintained for accounting purposes.
4. The safeguards and procedures in place to ensure that beneficiary funds are used only for designated and appropriate purposes.

5. How interest will be credited to the accounts of the beneficiaries, if applicable.
6. A mechanism that provides evidence that beneficiary funds were expended in the manner authorized.

D. Consent Requirements

The PASSE HCBS provider shall obtain consent from the beneficiary or their legal guardian prior to implementing the following:

1. Limiting the amount of funds a beneficiary may expend or invest in a specific instance.
2. Designating the amount a beneficiary may expend or invest for a specific purpose.
3. Establishing time frames where a beneficiary is required to or prohibited from expending or investing their funds.
4. Delegating responsibility for expending or investing a beneficiary's funds.

Restraints & Restrictive Intervention

A. Behavior Management Plan Required

A Provider is prohibited from using any restraints or restrictive interventions on a beneficiary unless the beneficiary has a developed and implemented behavior management plan which incorporates alternative strategies to avoid the use of restraints and restrictive interventions, and includes the use of positive behavior support strategies as an integral part of the behavior management plan (See Section 502 "Behavior Management Plans"). There is a limited exception to this requirement when the use of an emergency restraint is necessary (See Section 503 (E) "Emergency Restraint")

B. Definitions of Restraints and Interventions

1. "Physical restraint" or "personal restraint": the application of physical force without the use of any device (manually holding all or part of the body), for the purpose of restraining the free movement of a beneficiary's body. This does not include briefly holding, without undue force, a beneficiary in order to calm them, or holding a beneficiary's hand to escort them safely from one area to another.

2. “Physical Intervention”: the use of a manual technique intended to interrupt or stop a behavior from occurring.
3. “Restrictive intervention”: procedures that restrict or limit a beneficiary’s freedom of movement, restricts access to their property, prevents them from doing something they want to do, requires them to do something they do not want to do, or removes something they own or have earned. The definition would include the use of “time-out,” in which a beneficiary is temporarily, for a specified period of time, removed from positive reinforcement or denied opportunity to obtain positive reinforcement for the purpose of providing the beneficiary with the opportunity to regain self-control. Under no circumstances may a beneficiary be physically prevented from leaving.
4. “Mechanical restraint”: any physical apparatus or equipment used to limit or control a challenging behavior. This would include any apparatus or equipment that cannot be easily removed by the beneficiary, restricts the beneficiary’s free movement or normal functioning, or restricts normal access to a portion or portions of the beneficiary’s body.
 - Under no circumstances are mechanical restraints permitted to be used on a beneficiary.
5. “Chemical restraint”: the use of medication for the sole purpose of preventing, modifying, or controlling challenging behavior that is not associated with a diagnosed co-occurring psychiatric condition.
 - Under no circumstances are chemical restraints permitted to be used on a beneficiary.
6. “Seclusion”: the involuntary confinement of a beneficiary alone in a room or an area from which the beneficiary is physically prevented from having contact with others or leaving.
 - Under no circumstances is seclusion permitted to be used on a beneficiary.

C. Use of Restraints and Interventions

Permitted restraints and interventions may be used only when a challenging behavior exhibited by the beneficiary threatens the health or safety of the beneficiary or others. The use of restraints or interventions must be supported by a specific assessed need as justified in the beneficiary’s PCSP, and only performed as provided in the beneficiary’s behavior management plan.

1. Required Prior Counseling: Before a “time out,” an absence from a specific social activity, or a temporary loss of personal possession is implemented, the beneficiary

must first be counseled about the consequences of the behavior and the choices they can make.

2. Direct Observation: A beneficiary must be continuously under direct visual and auditory observation by staff members during any use of restraints or interventions.
3. Specialized Restraint and Intervention Training: All personnel who are involved in the use of restraints or interventions must receive training on and be qualified to perform, implement, and monitor the particular restraint or intervention as applicable. Additionally, personnel should receive training in behavior management techniques, and abuse and neglect laws, rules, regulations and policies.
4. Restraint and Intervention Identification: The PASSE HCBS provider is required to advise all staff, families, and beneficiaries on how to recognize and report the unauthorized use of a restraint or restrictive intervention.

D. Required Restraint and/or Intervention PCSP Information

Any PCSP and behavior management plan permitting the use of restraints or interventions must include the following information:

1. Identify the specific and individualized assessed need for the use of the restraint or intervention.
2. Document the positive interventions and supports used prior to any modifications to the PCSP that permits use of restraint or interventions.
3. Document the less intrusive methods of behavior modification that were attempted 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 to the PCSP that permitted the use of a restraint or intervention.
6. Include established time limits for periodic reviews to determine if the use of restraint or intervention is still necessary or can be terminated.
7. Include the informed consent of the beneficiary or legal guardian.
8. Include an assurance that the use of the restraint or intervention will cause no harm to the beneficiary.

E. Emergency Restraint

Personal restraints (use of staff member's body to prevent injury to the beneficiary or another person) are allowed in cases of emergency, even if a behavior management plan incorporating the use of restraints has not been developed and implemented. An "emergency" exists in the following situations:

1. The beneficiary has not responded to de-escalation or other positive behavior support strategies and the behavior continues to escalate.
2. The beneficiary is a danger to themselves or others.
3. The safety of the beneficiary and those nearby cannot be assured through positive behavior support strategies.

F. Reporting each Incident where Restraint or Intervention was Used

An incident report must be completed and submitted to DHS PASSE Quality Assurance unit and appropriate PASSE, in accordance with Section 300 herein no later than the end of the second business day following the date any restraint or restrictive intervention is administered. If the use of a restraint or restrictive intervention occurs more than three (3) times in any thirty (30) day period, permitted use of restraints and interventions must be discussed by the PCSP development team, addressed in the PCSP, and implemented pursuant to an appropriate behavior management plan.

Any use of restraint or intervention, whether permitted or prohibited, also must be documented in the beneficiary's daily service log, maintained in their service record, and must include the following information:

1. The behavior initiating the use of restraint or intervention.
2. The length of time the restraint or intervention was administered.
3. The name of the personnel that authorized the use of the restraint or intervention.
4. The names of all individuals involved and outcomes of the use of the restraint or intervention.

Medication Logs

1. Prescription Medications: Providers delivering direct care services must maintain medication logs detailing the administration of prescribed medications to the beneficiary. The prescribed medication logs must be readily available for review, and document the following for each administration of a prescribed medication:
 - Name and dosage of the medication administered.
 - Route the medication was administered.

- Date and time the medication was administered (recorded at the time of medication administration).
 - Initials of the staff administering or assisting with the administration of the medication.
 - Any side effects or adverse reactions to the medication.
 - Any errors in administering the medication.
2. PRN and Over-the-Counter Medications: PASSE HCBS providers delivering direct care services must also maintain logs concerning the administration of PRN and over-the-counter medications. The logs for the administration of prescription PRN and over-the-counter medications must document the following:
- How often the medication is used.
 - Date and time each medication was administered (recorded at the time of medication administration).
 - The circumstances in which the medication is used.
 - The symptom for which the medication was used.
 - The effectiveness of the medication.
3. Medication Administration Error Reporting/Charting: Any medication administration errors occurring or discovered must be recorded in the medication log and immediately reported to a supervisor. "Medication administration errors" include, but are not limited to, the loss of medication, unavailability of medication, falsification of medication logs, theft of medication, a missed dose, wrong dose, a dose being administered at the wrong time or by the wrong route, the administration of the wrong medication, and the discovery of an unlocked medication lock box that is supposed to be locked at all times.
- An incident report must be filed with DHS PASSE Quality Assurance unit and appropriate PASSE, in accordance with Section 300 for any medication administration error that caused or had the potential to cause serious injury or illness to a beneficiary.
4. Required Oversight Documentation: Each PASSE HCBS provider delivering direct care services must ensure that supervisory level staff review on at least a monthly basis all beneficiary medication logs to determine if:
- All medications were administered accurately as prescribed.
 - The medication is effectively addressing the reason for which it was prescribed.
 - Any side effects are noted, reported, and being managed appropriately.

Daily Service Activity Logs

Daily service activity logs must be maintained by all PASSE HCBS providers delivering direct care services in order to provide specific information relating to the individually identified goals and desired outcomes for the beneficiary, so that the care coordinator, PCSP Developer, and PCSP development team can measure and record the progress on each of the beneficiary's identified goals and desired outcomes. There is no required format for a daily service activity log; however, the daily service activity logs must document the following:

1. The name and sign-in/sign-out times for each direct care staff member.
2. The specific services furnished.
3. The date and actual beginning and ending time of day the services were performed.
4. Name(s) of the staff/person(s) providing the service(s).
5. The relationship of the services to the goals and objectives described in the beneficiary's individualized PCSP.
6. Daily progress notes/narrative signed and dated by the staff delivering the service(s), describing each beneficiary's progress or lack thereof with respect to each of his or her individualized goals and objectives. This would include any behavior management plan data required to be maintained pursuant to Section 502(E) above.

Beneficiary Service Records

A. Required Service Record Documentation

Each PASSE HCBS provider delivering direct care services to a beneficiary must establish a service record for the beneficiary. At a minimum, the service record file must contain:

1. A copy of the PCSP
2. Behavior management plan with proper beneficiary/legal guardian approval, if applicable
3. Daily service activity logs
4. Fully approved medication management plan and Medication logs, or signed election to self-administer medication if applicable
5. Fully executed copy of lease, residency agreement, or other form of written agreement that provides protections that address eviction processes and appeals comparable to those provided under a landlord-tenant law
6. Any documentation providing additional individuals with access to a beneficiary's service record

7. Guardianship Order, if applicable

C. Beneficiary Records Maintenance & Storage Retention Requirements

1. Confidentiality: A PASSE HCBS provider shall maintain complete service records/files and treat all information related to beneficiaries as confidential. Access to beneficiary service files must be limited to only those staff members who have a need to know the information contained in the records of the beneficiary. The only individuals that may access a beneficiary's files and records are:

- The beneficiary
- The legal guardian of the beneficiary, if applicable
- Professional staff providing direct care or care coordination services to the beneficiary
- Authorized Provider administrative staff
- Any other individual authorized by the beneficiary or their legal guardian

Adult beneficiaries who are legally competent shall have the right to decide whether their family will be involved in planning and implementing their PCSP, and a signed release or document shall be present in their service record either granting permission for family involvement or declining family involvement.

2. HIPAA Regulations: Each PASSE HCBS provider shall ensure that information that is used for reporting or billing shall be shared according to confidentiality guidelines that recognize applicable regulatory requirements such as the Health Insurance Portability and Accountability Act ("HIPAA").

3. Electronic and Paper Records/File Maintenance: Electronic service records are acceptable. Paper and electronic service records must be uniformly organized and easily accessible. A list of the order of the service record information shall either be present in each beneficiary's service record or provided to the DHS PASSE Quality Assurance unit and appropriate PASSE upon request. The documents in active service records should be organized in a systematic fashion. An indexing and filing system must be maintained for all service records.

4. Storage Location: The location of the files/service records, and the information contained therein, must be controlled from a central location.

5. **Direct Care Staff Access:** The PASSE HCBS provider shall ensure all direct care and care coordination staff has adequate access to the beneficiary's file/service record including, current PCSP and other pertinent information necessary to ensure the beneficiary's health, welfare, and safety (i.e., name and telephone number of physician(s), emergency contact information, insurance information, etc.).
6. **Record/File Retention:** Each PASSE HCBS provider must retain all files/services records for five (5) years from the date of service or until all audit questions or review issues, appeals hearings, investigations or administrative or judicial litigation to which the files/services records may relate are finally concluded, whichever period is later. Failure to furnish medical records upon request may result in sanctions being imposed. Federal legislation further requires that any accounting of private healthcare information ("PHI") or HIPAA policies or complaints must be retained for six (6) years from the date of its creation or the date when it last was in effect, whichever is later.
7. **Access Sheets:** Access sheets shall be located in the front of the service record to maintain confidentiality according to 5 U.S.C. § 552a. If there is a signed release for a list of authorized persons to review the service record, only those not listed will need to sign the access sheet with date, title, reason for reviewing, and signature. If there is not a signed release for authorized persons to review, all persons must sign the access sheet whenever the service record is reviewed or any material is placed in the service record.

Training Requirements

1. **First Aid Training:** Within thirty (30) days of hiring, all staff that may be required to provide emergency direct care services to a beneficiary (such as on-call emergency staff or management), shall be required to attend and complete a certified first aid course administered by certified instructors of the course. The course must include instruction on common first aid topics and techniques, including, but not limited to, how to perform CPR, how to apply the Heimlich maneuver, how to stop/slow bleeding, etc.
 - The course must provide a certificate of completion that can be maintained in the staff's personnel file.
 - Any services provided by a staff person prior to receiving the above described First Aid Training can only be performed in a training role, under the supervision of another staff person that has already had the required First Aid Training.
 - Training Certification must be maintained and kept up to date throughout the time any staff is providing services.
2. **Beneficiary Specific Training:** Prior to beginning service delivery, staff must receive the amount of individualized, beneficiary-specific training that is necessary to be able to

effectively and safely provide the supportive living services required pursuant to the beneficiary's PCSP, including, but not limited to:

- general training on beneficiary's PCSP
- behavior management techniques/programming;
- medication administration and management;
- setting-specific emergency and evacuation procedures
- appropriate and productive community integration activities; and
- training specific to certain medical needs.

Documentation evidencing that the necessary types and amount of beneficiary-specific training were completed must be maintained in the personnel file of the supportive living staff member at all times. This type of individualized, beneficiary-specific training shall be required each time a beneficiary's PCSP is updated, amended, or renewed.

3. Other Required Training: staff must receive appropriate training on the following topics at least once every two (2) calendar years:

- HIPAA Policies and Procedures
- Procedures for Incident Reporting
- Emergency and Evacuation Procedures
- Introduction to Behavior Management
- Arkansas Guardianship statutes
- Arkansas Abuse of Adult statutes
- Arkansas Child Maltreatment Act
- Nurse Practice Act
- Appeals Procedure for Individuals Served by the Program
- Beneficiary Financial Safeguards
- Community Integration Training
- Procedures for Preventing and Reporting Maltreatment of Children and Adults
- Other topics where circumstances dictate staff should receive training to ensure the health, safety, and welfare of the beneficiary.

Documentation evidencing that training on the topics has been completed must be maintained in the personnel file of the staff member at all times.

Beneficiary Accessibility Requirements

PASSE HCBS provider owned/leased/rented residential settings must be fully accessible by the beneficiary, compatible with the services being provided to the beneficiary, and compatible with the needs of each beneficiary and their staff, as provided in the beneficiary's PCSP. Each PASSE HCBS provider owned/leased/rented residential facility must be in compliance with U.S.C. § 12101 et. seq. "American with Disabilities Act of 1990," and 29 U.S.C. §§ 706 (8), 794 – 794(b) "Disability Rights of 1964."

Safe and Comfortable Environment

The PASSE HCBS provider must ensure that each PASSE HCBS provider owned/leased/rented residential settings provide a safe and comfortable environment tailored towards the needs of the beneficiary, as provided for in their PCSP. This shall include, but not be limited to:

1. All PASSE HCBS provider owned/leased/rented residential settings must meet all local and state building codes, regulations and laws.
2. The temperature must be maintained within a normal comfort range for the climate.
3. The interior and exterior of the residential setting must be maintained in a sanitary and repaired condition.
4. The residential setting must be free of offensive odors.
5. The residential setting must be maintained free of infestations of insects and rodents.
6. All materials, equipment, and supplies must be stored and maintained in a safe condition. Cleaning fluids and detergents must be stored in original containers with labels describing contents.

Emergency and Evacuation Procedures

The PASSE HCBS provider must establish emergency procedures which include detailed actions to be taken in the event of emergency and promote safety. Details of emergency plans and procedures must be in written form, and shall be available and communicated to all members of the staff and other supervisory personnel.

- A. There shall be written emergency procedures for:
1. Fires.
 2. Natural disasters.
 3. Utility failures
 4. Medical emergencies
 5. Safety during violent or other threatening situations

Additionally, the emergency procedures must satisfy the requirements of applicable authorities, and contain practices appropriate for the locale (example: nuclear evacuations for those living near a nuclear plant).

- B. The PASSE HCBS provider shall maintain an emergency alarm system for each type of drill (fire and tornado).
- C. Beneficiaries, as appropriate, must be educated and trained about emergency and evacuation procedures.
- D. Evacuation procedures must address:
1. When evacuation is appropriate.
 2. Complete evacuation from the physical facility.
 3. The safety of evacuees.
 4. Accounting for all persons involved.
 5. Temporary shelter, when applicable.
 6. Identification of essential services.
 7. Continuation of essential services.
 8. Emergency phone numbers.
 9. Notification of the appropriate emergency authorities.

Safety Equipment

PASSE HCBS providers must maintain the following items in each setting in which beneficiaries reside:

1. Functioning smoke detectors, heat sensors, carbon monoxide detectors and/or sprinklers
2. Functioning fire extinguishers
3. Functioning flash light

4. Functioning hot water heater
5. Emergency contact numbers (i.e. law enforcement, poison control etc.)
6. First-Aid kit

Required Independence and Integration

Beneficiaries must be safe and secure in their homes and communities, taking into account their informed and expressed choices. Participant risk and safety considerations shall be identified and potential interventions considered that promote independence and safety with the informed involvement of the beneficiary.

- A. PASSE HCBS providers must take reasonable steps to ensure that beneficiaries are safe and secure in their homes and communities, taking into account the beneficiary's informed and expressed choices.
- B. Participant risk and safety considerations shall be identified and potential interventions considered that promote independence and safety with the informed involvement of the beneficiary.
- C. Beneficiaries shall be allowed free use of all space within the group living setting/alternative living site with due regard for privacy, personal possessions of other residents/staff, and reasonable house rules.
- D. Settings must be able to provide beneficiaries access to community resources and be located in a safe and accessible location. Beneficiaries must have access to the community in which they are being served. The site shall assure adequate/normal interaction with the community as a group AND as an individual.
 - This can be achieved through transportation or through local community resources.
- E. The living and dining areas must be provided with normalized furnishings for the usual functions of daily living and social activities.
- F. The kitchen shall have equipment, utensils, and supplies to properly store, prepare, and serve three (3) meals a day. Beneficiaries must have access to food at any time. Any modification to this requirement must be based on an assessed need and documented in the beneficiary's PCSP.
- G. Bedroom areas are required to meet the following:

1. Shall be arranged so that privacy is assured for beneficiaries. Sole access to these rooms cannot be through a bathroom or other bedrooms. Bedrooms must be equipped with a functioning lock with only appropriate staff having keys.
 2. Beneficiaries must have a choice of roommate when shared by one or more individuals. The PASSE HCBS provider must actively address the need to designate space for privacy and individual beneficiary interests.
 3. Physical arrangements shall be compatible with the physical needs of the individuals.
 4. Each beneficiary shall have an individual bed. Each bed must have a clean, adequate, comfortable mattress.
 - a. Beds are of suitable dimensions to accommodate the beneficiary who is using it. Mattresses must be waterproof as necessary.
 - b. Each beneficiary must have a suitable pillow, pillowcase, sheets, blanket, and spread.
 - c. Bedding must be appropriate to the season and beneficiary's personal preferences. Bed linens must be replaced with clean linens at least weekly.
 5. Bedroom furnishings for beneficiaries shall include shelf space, individual chest or dresser space, and a mirror. An enclosed closet space adequate for the belongings of each beneficiary must be provided.
 6. Eighty (80) square feet per beneficiary in multi-sleeping rooms; one hundred (100) square feet in single bedrooms.
- H. Beneficiaries have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.
- I. Bathroom areas are required to meet the following criteria:
1. Sole access may not be through another beneficiary's bedroom. Commodes, tubs, and showers used by beneficiaries must provide for individual privacy.

2. A minimum of one commode and sink is provided for every four (4) beneficiaries. Lavatories and commode fixtures are designed and installed in an accessible manner so that they are usable by the beneficiaries living in the residential setting.
3. A minimum of one tub or shower is provided for every eight (8) beneficiaries.
4. Must be well ventilated by natural or mechanical methods.

Home and Community Based Services (HCBS) Settings Requirements

All PASSE HCBS providers must meet the Home and Community-Based Services (HCBS) Settings regulations as established by CMS. The federal regulation for the rule is 42 CFR 441.301(c) (4)-(5). All PASSE HCBS provider owned/leased/rented residential settings must have the following characteristics:

1. Be chosen by the beneficiary from among setting options including non-disability specific settings (as well as an independent setting), and an option for a private unit in a residential setting.
 - a. Choice must be identified/included in the beneficiary's PCSP.
 - b. Choice must be based on the beneficiary's needs, preferences and, for residential settings, resources available for room and board.
2. Ensure a beneficiary's rights of privacy, dignity and respect and freedom from coercion and restraint.
3. Must optimize, but not regiment, individual initiative, autonomy and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.
4. Facilitate beneficiary choice regarding services and supports and who provides them.
5. The setting must be integrated in and support full access to the greater community by the beneficiary, including the opportunity 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 beneficiaries not receiving CES Waiver services.
6. The unit or dwelling must be a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the beneficiary receiving services, and the beneficiary 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.

7. Each beneficiary has privacy in their sleeping or living unit, which must include the following:
 - i. Units have entrance doors lockable by the beneficiary, with only appropriate staff having keys to doors.
 - ii. Beneficiaries sharing units have a choice of roommates in that setting.
 - iii. Beneficiaries have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.
8. Beneficiaries have the freedom and support to control their own schedules and activities and have access to food at any time.
9. Beneficiaries are able to have visitors of their choosing at any time.
10. The setting is physically accessible to the beneficiary.
11. Any modification of the additional conditions specified in items 6 through 10 above must be justified in the beneficiary's PCSP. The following requirements must be documented in the beneficiary's PCSP:
 - i. Identify a specific and individualized assessed need.
 - ii. Document the positive interventions and supports used prior to any modifications to the PCSP.
 - iii. Document less intrusive methods of meeting the need that have been tried but did not work.
 - iv. Include a clear description of the condition that is directly proportionate to the specific assessed need.
 - v. Include regular collection and review of data to measure the ongoing effectiveness of the modification.
 - vi. Include established time limits for periodic reviews to determine if the modification is still necessary or can be terminated.
 - vii. Include the informed consent of the beneficiary.
 - viii. Include an assurance that interventions and supports will cause no harm to the beneficiary.