

Commonwealth of Virginia

Heightened Scrutiny Evidence Package

As required by 42 CFR 441.301 (c) (5) the Commonwealth of Virginia submits the request for CMS heightened scrutiny review.

Setting Information

Provider Name: Southside Behavioral Health	Setting Name: Ashley Manor
Setting Address: 130 Charlotte Ave. La Crosse, VA 23950	Type of Setting: Group Home Residential (Ten Bedrooms)
Number of people served at the setting: 8	Number of individuals reviewed: 2

Waiver Service Information

Individuals in this setting use one of the three (3) DD Waivers available in Virginia.

Community Living (CL Waiver)

Family and Individual Supports Waiver (FIS)

Building Independence Waiver (BI)

Heightened Scrutiny Criteria Met

Prong 1: Setting is in a publicly or privately operated facility that provides inpatient institutional treatment.

Prong 2: Setting is in a building on the grounds of, or adjacent to, a public institution.

Prong 3: Setting has the effect of isolating individuals from the broader community.

Section One

Onsite Visit Observation and Assessment

Date(s) of onsite assessment and review: August 18, 2021

State Agencies that Conducted the Onsite Visit: Department of Medical Assistance Services (DMAS) and the Department of Behavioral Health and Developmental Services (DBHDS)

Number of State Agency Representatives who Completed Assessment: Three; 1 representative from DMAS and 2 representatives from DBHDS

Description of Setting:

130 Charlotte Avenue is located in a rural area of La Crosse, VA. This setting is located in a residential area that is down a dirt road surrounded with other homes. While the area is rural, there are neighbors to the setting and there are multiple other single family homes that are within walking distance to the setting. Adjacent to the group home setting is an ICF/IID institution that is also operated by Southside Behavioral Health. This ICF/IID is visible through a tree-line while standing in front of the group home, but there is space in between the two settings. Of note, the settings are not connected nor do they share resources such as vehicles, staff, groceries, etc. Each setting is operated differently in terms of finances and staffing. The agency does have separate training requirements and job descriptions for staff working in the ICF and staff working in the group homes. Lastly, the agency reports that fiscal practices require them to keep these programs separate for billing purposes. Maintenance services, vehicles and supplies are kept separate. Also, there is a pay differential between the ICF and the ID Waiver groups along with additional trainings unique to each program which prohibits the integration of these homes.

La Crosse, VA just outside of South Hill, Virginia. This area does have restaurants and shops that are within a very short (5 minute) drive. Some examples include: Wal-Mart, Dollar Tree, Bo 'jangles, Food Lion, Sonic, Applebee's, The Home Depot, Tractor Supply Company and local parks and walking trails. There is not local public transportation or ride-share used, but the setting does have multiple vehicles that can be used to transport to and from any of the shops in the local area.

Evidence included: interviews with staff and individuals, review of pictures, and an in-person tour completed on 8/18/2021, Direct Support Professional Job Description, Intensive Residential Support Specialist Job Description.



Section Two

Evidence of Community Access to the Same Degree as Someone Who Does Not Utilize HCBS Services

Ashley Manor does have a schedule of activities for each individual who is receiving services. However, these schedules are kept in the daily support binders for each individual and not in their bedrooms. The state has recommended that each individual receive a personal copy of their activity schedule for ease of access. Activities have included: going to the dollar store, post office, banks, doctor's offices, Wal-Mart, going out to eat, visiting local parks, and individuals spending time with their families. The activities are often completed in smaller groups of people. Meaning, one staff person may take one or two individuals out at a time to accommodate for the activities of their choosing. There are times where all eight individuals might go out as a home, but the staff reports indicate this is rare as everyone has separate interests.

The home has multiple vehicles available to support access to the greater community as there are no resources within walking or biking distance. The program vehicles include a 15 passenger van and a smaller SUV. All vehicles are parked outside of the home and do not contain any signage of the agency.

While in the home, staff reported that some individuals do smoke cigarettes. If an individual smokes, there is a policy that they smoke in the designated area. In addition, several individuals enjoy going outside for walks or to go sit in their gazebo area. However, it is noted that staff do typically monitor each individual while they are outside. In addition, individuals do not report leaving the property without staff accompanying them. There are no specific program rules prohibiting an individual from going on a walk down the street by themselves, but this level of independence is not common in the setting.

Evidence: Provider's Community Integration Policy, Provider's Home and Community Based Services Policy, Person-Centered Plans, Quarterly Person-Centered Reviews, Daily Progress Notes, Interviews with staff and individuals.

Section Three

Evidence of Privacy, Autonomy and Independence

Staff and individuals do report that each individual does have a key to their bedroom and the entrance doors of the home. Individuals in this setting do not typically utilize the locks on their doors; however, they are available should an individual change their mind. All individuals do report that staff knock before entering rooms and provide privacy in the bathroom. In addition, there are no shared bedrooms in this home and individuals are able to spend time in their bedrooms whenever they would like.

Evidence included: interviews with staff and individuals, daily progress notes, in-person tour completed 8/18/2021.

Individuals did report asking staff before leaving the home and staff reported watching individuals go for walks around the property. Individuals did report being able to go outside at any time despite having to ask staff first. While onsite, the state team did witness several individuals completing ADL and IADL tasks independently. There is an individual within the setting who drafts the grocery list for the home and this includes foods, cleaning products and paper products. Individuals were also doing their laundry, writing letters to friends and family, using their computers and tablets, and directing their own days. Individual's reported having autonomy in their day to day schedules and the ability to self-direct what their days will look like.

Evidence included: interviews with staff and individuals and daily progress notes.

Section Four

Evidence of Choice and Freedom from Coercion and Restraint

The Virginia Informed Choice Form is completed at least annually with each individual by their assigned support coordinator/case manager. This form is kept on file stating the individual's choice to receive home and community based services and their choice of provider. Should an individual wish to change their services, the support coordinator/case manager would support the individual by looking at multiple other service choices and again completing the choice form (should another service or service provider be selected).

In addition to choice of services and providers, Ashley Manor provides choice in: types of food and drinks that are available to all individuals, clothing options, choice in activities, choice of places to go in the community, ability to choose to decline any offered activities or services, and choice in directing one's own life.

Evidence Included: Virginia Informed Choice Form, Person-Centered Plans, Provider's Home and Community Based Services Policy, Interviews with staff and individuals, Person-Centered Plans

The provider utilizes a de-escalation training for all employees upon hire and annually thereafter. The program utilized is Therapeutic Options. All staff reported that any kind of restraint is a violation of agency policy. When asked about the agency policy on coercion, staff were unable to provide any insight on how they avoid coercion or how to recognize signs that someone is being coerced. A re-training for all staff members will be required for this setting regarding coercion.

Evidence included: Orientation checklist for staff, Provider's Home and Community Based Services Policy, interviews with staff.

Section Five

Evidence of an Accessible Environment

This home does support individuals with a wide variety of support needs. The home does have an accessible entrance and exit, accessible bathrooms, doorways that accommodate medical equipment, and various seating options in the main living area. The home is accessible to each individual who lives there. The home has four bathrooms and each bathroom has grab-bars by the toilet and once of the bathrooms does have a walk-in shower. All of the hallways and doorways are wide enough to accommodate any durable medical equipment needed.

*Evidence included: pictures
and in-person tour
completed on 8/18/2021*

Section Six

Evidence of Participation in the Person-Centered Planning Process.

Individuals reported participating in their person-centered planning meeting. This included deciding where to hold the meeting, who should attend the meeting, picking their outcomes and voicing any needs for changes. In the event that an individual does not use words to communicate, the staff reported that the Home Manager will ask for input from staff who know them well prior to the meeting and ask for feedback from the staff once the plan is drafted. Direct Support Staff did not report attending the meeting.

Evidence included: a review of the person-centered plan, interviews with staff and individuals, review of the provider's Home and Community Based Services Policy- Expectations for Person Centered Planning.

Section Seven (As applicable)

Evidence of Provider-Owned Residential Protections including: a lease agreement, access to food at any time, ability to have visitors at any time, a key to the dwelling, and the ability for the individual to decorate their bedroom.

Each individual does have a signed lease agreement. All individuals and staff reported access to food at any time. All food is kept accessible in the pantry and refrigerator- there are no locks or barriers to access. Individuals and staff were able to report that individuals can have visitors at any time; however, the staff did not report knowing if an individual could visit in private with someone in their bedroom. Staff will be retrained on this principle. All individuals do have keys to their bedrooms and entrance doors. Individuals can decorate their bedroom to their liking. Several individuals reported getting new bedspreads and décor items as they request changes. In addition, walls are painted and re-painted at the individual's request. There are no shared bedrooms in this home.



Evidence included: Evidence included: pictures, the provider's Home and Community Based Services Policy, the signed lease agreements, interviews with staff and individuals, pictures and the in-person tour completed on 8/18/2021.

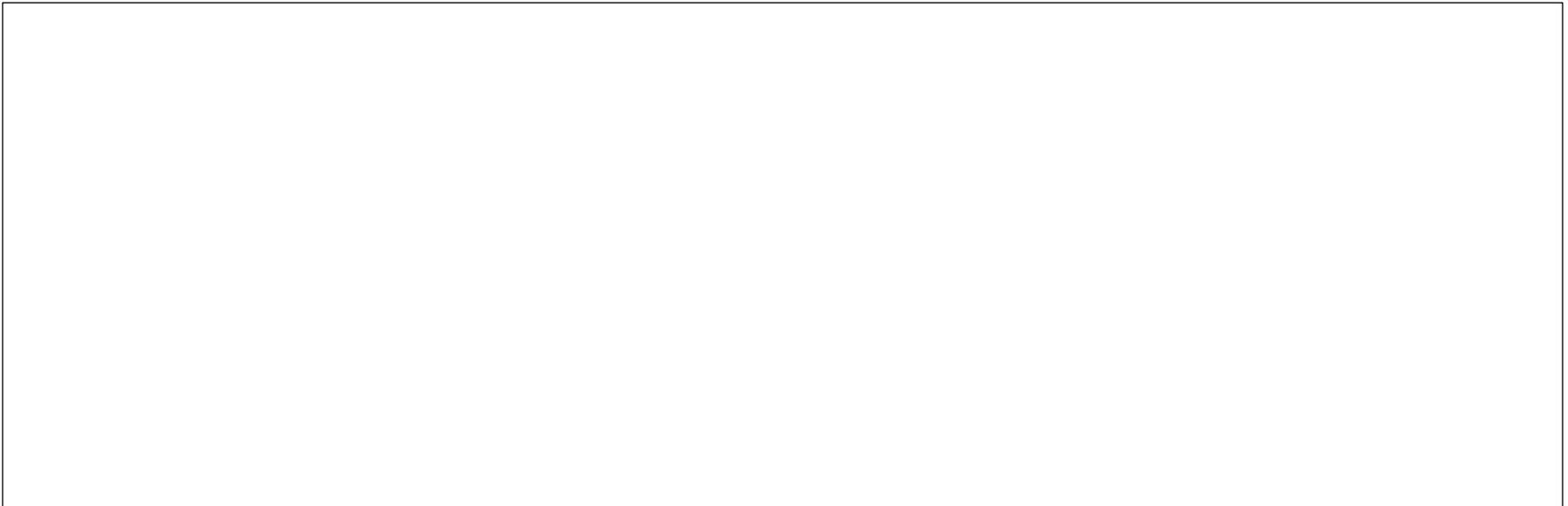
Public Comment Review Period:

Public Comments Summary

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Section Nine

Summary of State Response to Public Comments

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Attachment List:

Attachment A- Commonwealth of Virginia: Modernizing Culture, Practices and Competencies in Home and Community-Based Services

HCBS Review Team, Provider On-Site Settings Review Protocol, July 2020

Attachment B- Full Evidence List

Attachment C- Summary of Audit Findings

Attachment D- Provider Remediation Plan

Attachment A:

Summary of Review Protocol Utilized by Virginia

Protocol Overview

The purpose of this protocol is to describe the processes, tools and timelines for the Commonwealth of Virginia Home and Community-Based Services (HCBS) Review Team to conduct a review of a statistically significant sample of the following home and community-based settings: Group Day Services, Supported Living, Sponsored Residential, Group Home and Group Supported Employment Services. The purpose of these reviews is to ensure the rights, dignity and autonomy of individuals enrolled in these programs are honored according to the HCBS Final Rule published in the Federal Register on January 16, 2014; effective March 17, 2014. The HCBS Final Rule establishes requirements for residential and nonresidential service settings in Medicaid waiver programs to ensure individuals receiving services through HCBS waiver programs have access to the benefits of community living and are able to receive services in the most integrated settings. This process is referred to as the provider on-site¹ settings review (OSR).

A HCBS Review Team is established from the Department of Medical Assistance Services (DMAS) and the Department of Behavioral Health and Developmental Services (DBHDS). Each review team consists of 2-4 state staff and may include a combination of representatives from DMAS and DBHDS. In preparation for each OSR, the HCBS Review Team assimilates findings from all provider self-assessment information entered into Research Electronic Data Capture (REDCap). The interview questions, documentation review and visual observations are based on the evaluation of compliance in the following six categories:

- *Community integration and engagement*
- *Autonomy, choice and control*
- *Friends and visitors*
- *Physical environment (Location, signage, accessibility)*
- *Privacy and respect*
- *Policies, procedures and practices (promotion of rights and integration)*

Settings Tours and Observations

Settings Tour

¹ As of 6/1/2020, an alternative, hybrid approach was added to this protocol. All references to OSR mean any method of review, in-person or virtual.

The HCBS Review Team conducts a walking tour of the physical environment to observe indicators of compliance/non-compliance. This includes but is not limited to the location, decoration, accessibility, signage and privacy. The settings tour occurs using the Provider Settings Review Tool which includes questions for determining if the setting is fully integrated into the community; is accessible, which includes no obstructions or blocked doorways; is decorated according to individual preferences; has locks on the inside of bathroom and bedroom doors to allow privacy; and has signage without terms stating that people with disabilities receive services there.

Additionally, the HCBS Review Team determines whether:

- The home is on or adjacent to an institutional setting (heightened scrutiny)
- The home is isolated from the community and does not have the effect of isolating people from the community
- The home is integrated in and supports access to the greater community
- The environment is physically accessible

The HCBS Review Team also may take indoor and outdoor photographs of the building, signage, access doors, etc., as evidence in the setting's OSR file and to submit to CMS for heightened scrutiny review. For confidentiality purposes, no photos are taken of people.

For OSRs with virtual elements, the HCBS Review Team tours the setting through virtual means with the provider using a tablet or cell phone to offer a live, visual (FaceTime or other visual application) opportunity to observe the setting. The HCBS Review Team may request the provider submit photos taken (both indoors and outdoors) during the virtual tour. The Commonwealth may submit these photos to CMS as evidence for settings subject to a heightened scrutiny review. Photos do not include images of people.

The state may decide to follow-up with an in-person visit if only one state reviewer can participate in the virtual tour or if deemed necessary as determined by what is observed.

Settings Observations

The HCBS Review Team seeks to learn about the implementation of provider processes to assure community integration and engagement. The OSR involves discussion with staff, supervisors and leadership, and review of service documentation. Dependent upon the type of setting, the review may involve observation of active service delivery, such as day programs, residential supports or group supported employment. Where possible, the HCBS Review Team focuses discussions with those involved in the frontline application of the provider's service delivery processes. Observations and discussions with provider leadership, supervisors and managers occur in addition to rather than instead of discussions with direct line staff.

The HCBS Review Team makes observations and ask questions to determine:

- Individuals are provided choice, autonomy, and community engagement
- Individuals are provided choice regarding services and who provides them

- The individual has a lease or other legally enforceable agreement providing protections from eviction that tenants have under the landlord/tenant law of the state, county, city or other entity (for settings where landlord tenant laws do not apply, the state must ensure that a lease, residency or other agreement provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law). The agreement must include at a minimum the agreement length, payment information, use and return of security deposits, maintenance expectations, notice before entry into a unit, and conditions that could initiate an eviction and the process to terminate an agreement, evict a tenant/resident and the process to appeal an eviction. Additional information regarding the Virginia Resident Landlord and Tenant Law Act can be found [here](#).
- The individual has privacy in his or her unit, including lockable doors, choice of roommates and freedom to furnish or decorate the unit
- The individual controls his or her own schedule, including access to food at any time
- The individual can have visitors at any time
- The home is selected by the individual from among setting options
- Policies, procedures and practices promote HCBS rights and integration
- Staff competencies, training, and interactions promote rights of privacy, and respect, as well as freedom from coercion and restraint

Interview with Direct Service Providers, Volunteer and Supervisor

Interviews with staff and volunteers in the setting, including direct service providers and supervisors, are for the HCBS Review Team to learn about implemented practice and processes for assuring individual's experience with community integration, engagement, and autonomy. Additionally, the team asks questions relating to the physical aspects of the setting to determine how they assure the individual's understanding of their options to participate in general community activities with supports/services, including options for employment and where they live. Questions are to determine if individuals have privacy, understand their choice in roommates, and have the liberty to furnish and decorate the room/home in which they reside.

The HCBS Review Team focuses the interviews with staff who are directly involved in the frontline application of the provider's direct service delivery processes, including group home managers, DSPs, sponsored residential providers, day program managers and employment site managers and/or job coaches. Interviews with provider executive leadership and administrative staff occur separately, in addition to rather than instead of conversations with direct line staff. Interviews occur with individual staff and/or in groups to glean as much information from as many people as possible during the OSR. For settings with five or fewer staff, the HCBS Review Team asks all staff to participate in interviews. The HCBS Review Team interviews a 10% sample when the setting has six or more staff.

All staff interviews, regardless of role within the setting, include the following common elements to initiate the discussion:

- Introductions of the HCBS Review Team
- Introductions by the staff, including a short overview of their role with the setting
- An overview of the project and the purpose of the OSRs and the importance of the staff person's participation in the interview

- An overview of the interview process to include:
 - An explanation that the interview is intended to be a fact gathering exercise and that notes are taken to inform the OSR to support the provider's goal of organizational compliance with the HCBS Final Rule
 - A note that any references to HCBS individuals include the Authorized Representative/Guardian, as appropriate
 - A request that the staff person provide candid responses to the questions to seek improvement with the provider's goal for organizational compliance with the HCBS Final Rule
- An opportunity for the provider or staff to ask questions about the process

The HCBS Review Team then uses the state-developed interview questions to facilitate the conversation and record responses. At the conclusion of the interview, the HCBS Review Team provides contact information for the Regional DMAS staff if the person wants to share additional information after the OSR. The HCBS Review Team concludes with an expression of thanks to the person for sharing valuable information and insights.

When conducting a 100% In-Person OSR, the HCBS Review Team selects staff who are present during the OSR for interviews. Otherwise, a selection of staff that regularly work in the setting receive a remote interview session. Virtual interviews occur by telephone, or teleconference, preferably using a webcam for visual participation (with applications such as FaceTime or Zoom Meetings). It is important to convey to the provider these interviews are private so that no other staff or supervisors are present in the room during the interview.

Interviews with Individuals Who Receive HCBS

The HCBS Review Team interviews individuals during the OSR to learn about their experience in the setting and what they understand about their options for services and supports outside the setting. A minimum of 25% of individuals receiving services in a setting are interviewed and no less than 2 individuals for smaller settings of 2-10 persons receiving services. The HCBS Review Team randomly selects individuals for interviews and provides a list of those individuals in the Provider Packet. Individuals receive information about the visit prior to the OSR via the Individual and Family Letter and Individual Interview Fact Sheet. Individual interviews occur outside of the presence of staff. The HCBS Review Team assures individuals that their responses are not shared with staff. Individual participation in an interview is optional. If an individual does not want to participate, the HCBS Review Team works with the provider to identify a replacement, if possible. The HCBS Review Team documents the number of individuals in each setting that refuses an interview.

The HCBS Review Team then uses the interview questions to facilitate the conversation and record responses. At the conclusion of an in-person interview, the HCBS Review Team provides contact information of Regional DMAS staff if the individual wants to share additional information after the OSR.

At the conclusion of a virtual interview, the interviewer verbally or visually (using a paper sign) provides contact information of Regional DMAS staff if the individual wants to share additional information after the interview. If able, the individual can write down the contact information.

Other options for sharing this contact information include:

- Inviting the support person back into the room to assist
- Sending the contact information via email
- Sending the contact information via text message
- Mailing a postcard to the individual
- Adding the contact information to the Individual/Family letter prior to sending the provider packet

Regardless of OSR approach, individuals, or family/guardian, may choose to participate in the interview remotely. The HCBS Review Team collaborates with the provider to determine if individuals in the sample have the ability to consent to participation in a private, remote interview. The expectation is the individual can participate independently without assistance from staff other than to set up and start the phone/video call. At the start of a remote video interview, the interviewer will ask the individual if anyone has joined them in the room. If the response is affirmative, the interviewer will ask the individual to introduce their guest. At this time, the interviewer will determine if the guest will be participating in the interview; if yes, they will be asked to move into the video frame and in view.

Attachment B:

Full Evidence List

- REDCap Provider Self-Assessment
- Mission Statement
- HCBS Policy, Community Participation Policy, Provider policies in REDCap
- Code of Conduct
- DSP Job Description
- Video Monitoring Policy and proof of approval
- Consent forms signed by individuals and/or guardians
- Employee Training Checklist
- Staff Orientation Form
- HCBS training materials

HCBS staff training records
Lease agreements signed by individuals
HCBS rights disclosure form signed by individuals
Person Centered Individual Support Plans
ISP part V for all individuals reviewed
Person Centered Quarterly Reviews for all individuals reviewed
On Site Visit Tool
House Activity Calendar
Individual Schedules
Pictures of location
Google Maps
Supplemental Risk Assessments
Daily and Monthly Notes for the period of 1/1/2020-1/31/2020
Logs/Data sheets for 1/1/2020-1/31/2020
Interviews with individuals and staff completed on 8/18/2021.

Attachment C:

Summary of Audit Findings

HCBS Standard	Rating
1. Integrated Setting supports access to the Community.	Partially Compliant
2. Individual Choice of Setting.	Partially Compliant
3. Individual Rights	Partially Compliant
4. Autonomy	Partially Compliant
5. Choice	Partially Compliant

Attachment D:

Provider Remediation Plan

Remediation Item	Completion Time Frame	Strategies to Address Remediation Item	Resources Needed to Complete	Notes
Multiple alarms for doors leading outside.	Completed 9/9/2021	The door alarm system has been fully disabled.	Maintenance staff will disable the alarm system by removing the power source.	May need to re-visit if a resident's support need changes. A revise ISP will then reflect and justify the level of supports needed.
Excessive signage.	10/15/2021	All signs and postings that are not required by regulatory oversight agencies will be removed from the general area of the home.	A system such as a staff information will be developed for policies, memos, etc. and maintained in the staff office.	
Interior window looking into main area of the home.	9/24/2021	The interior window looking into main area of the home will be completely covered.	Maintenance staff will cover the window with a non-see through decorative opaque film in order to promote privacy.	
Individual specific activity schedules are not readily accessible to each individual.	9/14/2021	Each of the residents will be provided a monthly activity schedule that reflects their choices.	A copy of the monthly activity calendar will be placed each bedroom for their review.	This will be ongoing monthly at the beginning of each month.
Staff are unaware of the specific HCBS Rights.	10/31/2021	Staff will be retrained and retested using SBH's HBCS training module.	SBH will use their current training materials.	
Staff do not promote dignity of risk.	10/31/2021	a. Staff will be retrained and retested using SBH's HBCS training module.	a. SBH will use their current training materials	

Remediation Item	Completion Time Frame	Strategies to Address Remediation Item	Resources Needed to Complete	Notes
		b. Staff will be presented with the additional information provided by HCBS.	b. Staff will be trained with the additional information via U-Tube provided by the HCBS review team.	
Individuals unaware of their HCBS rights.	10/31/2021	ID Support Coordinator will re-disclose all HCBS rights to the residents and their guardian/AR receiving services.	The Support Coordinator will meet with the individuals and their guardian/AR to re-review HCBS rights and have both the resident and guardian/AR re-sign the Disclosure of Rights form.	This is completed annually by the Support Coordinator during each planning meeting.

