

Session 2

3/23/23 1pm

[Home and Community Based Services Toolkit \(virginia.gov\)](#)

[HCBS Training | DMAS - Department of Medical Assistance Services \(virginia.gov\)](#)

1. How many guests can stay the night at the same time?
[There is no limit outlined in regulation/policy.](#)
2. There is concern about HCBS requirements for guests and DBHDS licensing and human rights regulations. With individuals having any guest at any time, without a requirement for scheduling or ability to ask for ID, so providers can track who is in the home and/or plan for extra staff, what happens if a visitor takes someone else's property or makes threats or hits others? Is the provider going to receive citations from DBHDS?
[Individuals are entitled to have guests at any time. If the visitor acts in a way that is threatening to others in the home, they can be asked to leave or have law enforcement involved.](#)
3. What percentage of audits is 400 individuals? Compared to the number of individuals who are receiving waiver services in Virginia? Why isn't the state auditing at least 10% of the individuals in the state who are receiving waiver services? With such a small number of individuals being audited how can the Commonwealth truly understand the issues which are occurring in the community with and for the individuals?
[HCBS reviews are based on the number of settings that provide group home, sponsored residential, supported living, group day and group supported employment services. 400 was a 10% sample of the total settings not individuals receiving the services.](#)
4. Do the 2200 reviews cover every group home managed by a provider, or one review for all the provider's group homes?
[Each individual setting will receive a review.](#)
5. Will providers be cited for too much signage? What about the notifications posted for individuals required by Office of Licensing, Human Rights?
[Signage that is required by regulation is not considered excessive and will not be cited.](#)
6. How is it safe for anyone to come and stay? Providers have to be background checked. Also, what happens if they get hurt on the property? Would my insurance be charged?
[Individuals are entitled to have visitors at any time. If a visitor becomes unsafe, they can be asked to leave. If there is an ongoing issue related to health and safety, a modification can be explored by the team.](#)

Questions and Answers
HCBS Stakeholder Updates

7. What is the rule for the time frame for visitors can you limit visitors like after 12 midnight or 1 am?
No. Individuals are entitled to visitors at any time. If a visitor is disruptive or dangerous, they can be asked to leave.
8. Can an individual receive known homeless person who then stays with them in the home at any time of their choosing?
Individuals are entitled to visitors at any time.
9. For individuals with significant support needs, a schedule is needed to guide staff throughout the day and ensure individuals needs/wants are met? Is this not allowable?
If an individual utilizes a visual schedule or cues that is perfectly acceptable. Excessive signage to the staff in the home (policy, emails, time off requests) is not acceptable.
10. Can you provide the actual regulation that discusses what is allowable and non-allowable for billing (ex 12VAC35-107)?
Allowable activities are different for every service. Regulations are available at-
<https://law.lis.virginia.gov/admincode/title12/agency30/chapter122/>
11. Are there plans in the future for HCBS, licensing and human rights to be all on one accord so providers can implement changes without confusion?
HCBS reviewers confer with DBHDS on an ongoing basis. Please reach out to your reviewer with specific questions.
12. Can you give me a link (or let me know where exactly to find) the allowable billable services for Group Day from the DD Waiver's Final Regulations? Thank you!
<https://law.lis.virginia.gov/admincode/title12/agency30/chapter122/section380/>
13. When do we have to be in full compliance and when will DOJ pull out?
The transition period for HCBS ended on 3/17/23 and all provisions not associated with staffing are expected to be in compliance now. Any area associated with staffing must be in compliance as quickly as possible, but no later than 1/1/26.
14. What is the rule regarding if group home providers state that they are unable to take consumers into the community due to short staffing? Are we accepting rides as community involvement?
Providers are expected to be actively working on the staffing issues in order to implement individuals' plans. If a provider can't take an individual out at the exact time they wish, the provider must schedule an alternate time with the individual. Riding around without a destination is not community involvement.

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15. What about health and safety protocols posted in the individuals room?
There should not be PHI visible in a home. Staff are responsible for implementing plans and referencing an ISP as needed.
16. So, would a variance have to be completed for individuals that may have medical conditions or physical impairments that would be a health issue if they inadvertently lock themselves in their room? A lock and key may not be ideal for all individuals.
Staff are expected to have a back-up key in the event of an emergency.
17. What happens when an individual exercises their rights, but their choices upset or infringe upon the desires and choice of others who share the home?
It would be recommended to schedule a team meeting and discuss the individual's goals and outcomes. They may desire a different living situation. Your community resource consultant may also of assistance.
18. Is a Room and Board Agreement and a Lease the same document in the State's eyes.
No. Each individual must have a lease or residency agreement.
19. Under house rules, can I impose a curfew?
No.
20. How do you "vet" a visitor for the safety of the other individuals and staff in the home? COVID?
All visitors may not be family and known friends.
Individuals are entitled to have visitors at any time.
21. My question is about the overnight visitors if one individual has another Individual stay with them you stated staff is not responsible for visitor, but what if that person needs help with medications or help with ADL's what is our responsibilities, do we help them, then we become liable of their care?
A provider has no responsibility to provide services to a visitor.
22. Most of our individuals would not qualify for rental lease, how can we address this with the lease agreement?
When a lease agreement does not apply, a residency agreement with eviction protections may be used.
23. The Virginia Employment Commission requires all Virginia businesses with employees to prominently post a number of labor law posters, covering topics such as the minimum wage, health & safety, and other important labor laws, in the workplace. How are we as providers able to be in compliance with this when the employee's workplace is considered the individuals home?
Many providers display these signs at an administration office, and it meets the requirements set by VEC. Should a provider not have an administrative office, posters could be put on the inside of doors or areas that are not typically seen by individuals living there or visitors.

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24. In a day support setting, if an individual is provided a variety of activities but preferred activities only include coloring and watching preferred shows - despite it not considered a billable service - wouldn't it be a violation of their right of choice to not provide those activities?

It would be recommended to have a team discussion to talk about the individuals' outcomes and goals. It may be the person wants a different schedule, outcomes or service.

25. With group day services, it's understandable that coloring, sleeping, sitting at a table not engaged are not allowable/billable activities. What if it's the individual wants to color/sleep/ or choose not to do an activity? What would be the best way to offer person centered services if things that they prefer is not allowable? Thank you for your time.

It would be recommended to have a team discussion to talk about the individuals' outcomes and goals. It may be the person wants a different schedule, outcomes or service.

26. How does this overnight visitor thing work in a shared room?

The individual's sharing a room would have to reach an agreement. This can be included in the ongoing choice documentation.

27. A fellow provider was cited in a recent review for having scheduled snack. Why is this not allowed? Staff need reminded to make sure they are offering the individuals snacks especially for individuals that have very limited communication abilities.

Individuals can eat when and where they desire. It is fine to offer a snack at specific times, but an individual can choose to have a snack whenever they want. Set snack times should not be in place for staff.

28. On visitors: What about a female resident who sees sex in every male and tells staff this is my friend and has just met this male and doesn't know his name but wants him to stay. Also question on keys for people with SIB and PICA?

Individuals are entitled to have guests at any time. For health and safety concerns, a modification could be put in place with the individual and their support team. Individuals can have relationships with people of their choosing, it is part of community life. A provider/support team can support an individual to learn about healthy interpersonal and sexual relationships. If a physical key would be a health and safety concern, it may be helpful to explore the use of a keypad. If that does not work for health and safety reasons, a modification could be explored.