



# THE BUREAU OF DISABILITIES SERVICES

DIGNITY, RESPECT, AND CONTROL

January 2024

FREQUENTLY ASKED QUESTIONS

## ACRONYMS/DEFINITIONS

CM: Case Manager

CMO: *Case Management Organization*

DSP: *Direct Support Professional*

IST: *Individualized Support Team*

POCOS: *Provider Owned or Controlled Setting*

Provider: *An entity approved by the BDS to provide services and supports to an individual.*

## FAQs

1. Should team meetings be held in restaurants and coffee houses?

*An individual's choice should always be the primary consideration when determining where a meeting is held. If privacy is an issue, it may be helpful to have a discussion with the individual sharing the privacy concerns of holding a meeting at a public place or service setting.*

2. Should there be a sign in sheet at an individual's home?

*Visitors should not be required to sign in and out of an individual's home. No one should be in the home unless they are invited by one of the individuals living in the home, whether it is a visitor or staff. One way to think about it is that in a non-waiver home, there are not sign in/out sheets.*

3. Are providers considered visitors?

*Regarding an individual's home, the individuals living in the home decide who comes into their home. No one should be in the home unless they are invited by one of the individuals living in the home, whether it is a visitor or staff.*

4. If an individual paid for and owns their own home and has RHS staff during the day, why is this considered a POCOS home and require emergency plans to be posted and such?  
*A POCOS setting is defined as a setting owned by the provider; or a residential setting in which an individual, who is not living in their family home utilizes RH20, RHS Daily, or SFC. The purpose is to ensure the individual has the same access to the community as someone who is not receiving services. It is the individual's home and there is no requirement that an emergency plan be posted in their home. However, an emergency plan should be developed and available in the home for staff to reference and educate the individuals who live there. It can be posted in the home if agreed upon by all individuals who live in the home.*
  
5. If the individual has chosen for the meeting to be in the home or I am doing an unannounced visit, should I (a case manager) have to sign in?  
*No, you do not have to sign into the home. The individual should grant permission for you to enter the home.*
  
6. If the individual has chosen for the meeting to be in the home or I am doing an unannounced visit, should I (a case manager) have to sign in? 460 IAC 6-19-7  
Documentation of services provided mentions case managers are to sign into the individual's homes.  
*No, you do not have to 'sign' into the home. The individual should grant permission for you to enter the home. The case manager should always document in case notes when there is a meeting or visit with an individual.*
  
7. What about when an individual's choice infringes on the rights of others? For example, when an individual wants to have sex with someone who doesn't want to have sex with him?  
*This example is a crime and should be considered just like if the individual was not in HCBS services.*
  
8. How should this be addressed with a provider if there is a sign in sheet when I arrive?  
*The individual should be the one to authorize a visitor to enter the home. If another entity will not allow entrance into the home, you can contact BDS for assistance.*
  
9. Several individuals served have guardians. How do you balance free will with guardian wanting to dictate all aspects of individual's life?  
*The IST should become informed regarding the rights and responsibilities of each individual's guardianship. Guardianships can vary greatly and balancing an individual's free will with a guardian's wishes should foster an individual's dignity, respect, and control of their own life. Guardians should always act in good faith while encouraging self-reliance and independence. The individual should still be involved to the greatest extent possible in all decision-making. The individual should continue to have choice in*

*activities, food preferences, personal items, friends, etc. Any infringement on a person's rights must be consistent with the HCBS Settings Rule modification requirements.*

10. In regard to meetings not being held in a public setting (coffee house, restaurants, etc.), but isn't the rule that we are also not supposed to hold at a service setting. What do we do for those that do not want to hold all of their meetings in their home?

*An individual's choice should always be the primary consideration when determining where a meeting is held. If privacy is an issue, it may be helpful to have a discussion with the individual sharing the privacy concerns of holding a meeting at a public place or service setting.*

11. Would it be appropriate to have staff request to see ID if staff are unfamiliar with a visitor that comes to the Individual's home?

*The individual should be the one who approves the visitor to enter.*

12. What about when the individual who lives in the home wants their boyfriend to spend the night and the staff don't like the boyfriend so they come up with all kinds of reasons why he can't be at the home very often?

*It is the individual's home, and they should make the decision on who visits. Per the HCBS Settings Rule, individuals have the right to visitors of their choice, at a time of their choice, and to expect privacy during the visit. Teams can assist with educating the individual on ensuring that overnight guests do not exceed the limits of the lease but cannot prevent the individual from making those decisions. If it continues to be an issue, you can contact BDS or the Ombudsman for additional support.*

13. What if one of the housemates does not want a certain visitor in the home that another housemate has invited?

*In a shared living arrangement, all individuals living in the home have the right to visitors of their choosing. If there are disagreements regarding visitors, individuals should be empowered to discuss their concerns and work toward an agreement or creative solution. If no agreement or positive solution can be reached, a discussion may need to occur about the effectiveness of the living arrangement (recognizing that lease obligations may exist). The key is that the individuals involved should be equipped to drive the solution and to work toward any conflict resolution.*

14. If a guardian is standing in the way of a transition because they don't like the area or house or traffic or any other excuse...do we follow what they are asking and demanding or do we do what the individual is asking?

*ISTs should discuss all possible options and try and work through any objections. It is ultimately the individual and their guardian's decision where they live and the guardian (if full guardianship or guardian of the estate) has to sign any lease agreement.*

15. In a POCOS home owned by the individual and the individual is receiving RH20, how often should drills be completed on the evacuation plan and what all drills are required?

*The provider is required to develop an emergency plan and evacuation procedures. The staff should be trained and have the information available in the home for reference. The provider should educate the individuals living in the home and provide the option to practice the emergency procedures if the individual desires to do so.*

16. Knowing that a lot of Behavior Support Plans have language that do not align with the setting rule, what is being done to remove these?

*The PCISP is aligned with the HCBS Settings Rule and the BSP and PCISP should align. It is the responsibility of the provider of behavior management to ensure that their BSP's align with the HCBS settings rule; however, ISTs should work together to develop the BSP and informed consent by the individual should be included. Any BSP that has a restriction requires identification of the specific and assessed need, documentation of positive interventions and less intrusive methods that have been tried but weren't successful, a regular collection of data and continuous review to measure ongoing effectiveness, and established time limits for review for reduction or elimination of restrictions.*

17. So, we have no obligation to protect the individual from manipulative or abusive boyfriends?

*Individuals are the primary driver of their own life and decide who they choose to spend time with. If abuse/violence occurs or is occurring, ensuring individuals receive the support and education they need, and desire should occur. However, protecting an individual should never perpetuate abuse by restricting an individual's dignity, respect, or control of their own lives. As a reminder, providers are mandatory reporters and must file an incident if abuse or neglect is suspected. If a crime occurs, a police report should be filed.*

18. Guardian interference with emotional processing. Individuals seem to have a conditioned response to guardian reactions to specific topics. The conditioned response from the individual does not facilitate healthy emotional processing. What resources are available to address this issue?

*It is the responsibility of each individual's team to support the individual in a way that is meaningful and beneficial to them. Facilitating an individual's emotional well-being should include interventions specific to the individual that may include modeling,*

*teaching, counseling, support, and others. Available resources include waiver supports, natural supports, community-based activities and others. These interventions should always be the individual's choice.*

19. How do you handle a situation in which the individual wants to be involved with someone who could be bad?

*Individuals are the primary driver of their own life and decide who they choose to spend time with. If abuse/violence occurs or is occurring, ensuring individuals receive the support and education they need, and desire should occur. Teams should also support individuals in developing natural supports/building social collateral.*

20. What if the visitor has known criminal activity?

*Individuals are the primary driver of their own life and decide who they choose to spend time with. Providers should ensure individuals receive the support and education they need, and desire. However, protecting an individual should never perpetuate abuse by restricting an individual's dignity, respect, or control of their own lives. If you witness a crime, the police should be contacted.*

21. How do we advocate for an individual who has an emotionally abusive guardian? One that is acting against the individual's best interest, who also manipulates and coerces the individual, making proof difficult?

*If suspected or documented abuse, neglect, or exploitation is noted, reporting requirements should be followed. Individuals may petition the court for a review of guardianship or may request an alternate guardian. As appropriate, BDS and/or the ombudsman may be contacted.*

22. For an individual with RH20 living in an apartment, is that a POCOS?

*A POCOS setting is defined as a setting owned by the provider; or a residential setting in which an individual, who is not living in their family home utilizes RH20, RHS Daily, or SFC.*

23. What site do we find the Settings Rule information?

*Information about the settings rule can be found at:*

<https://www.in.gov/fssa/ddrs/quality-improvement/>  
<https://www.medicaid.gov/medicaid/home-community-based-services/guidance/home-community-based-services-final-regulation/index.html>  
<https://acl.gov/programs/hcbs-settings-rule>  
<https://www.cms.gov/newsroom/fact-sheets/home-and-community-based-services>

24. While supporting individuals (and families) with dignity - what resources are available to translate common documents to preferred language? Individuals are signing all sorts of documents without a clear understanding of what they are signing (e.g. BSP, BDS documents, Authorization to Disclose PHI, etc.).

*The Civil Rights Act of 1964 requires entities authorized under federally funded programs to ensure information is disseminated in the individual's preferred language and/or mode of communication. The provider should seek translations and interpreter services to fulfill this requirement. The provider and IST must explain the information to the individual and what their signature represents in a method in which they understand.*

25. Can you please share a link to the YouTube channel?

*The following link contains videos from various state agencies. BDS provider training webinars are available in the BQIS playlist. All provider webinars are available in the BDDS playlist available at <https://www.youtube.com/@FSSAIndianavideos/playlists>*

26. What if the individual has a high risk of exploitation and the individual does not verify anything prior to inviting strangers to their shared home?

*ISTs should continue to discuss with the individual potential dangers of allowing strangers into the home. The housemates can also be supported to work together to come up with a mutual agreement on the issue. A restriction could be explored after all other avenues have been exhausted.*

27. What do I do if I am not being allowed to select the caregiver of my choice?

*460 IAC 6 requires person-centered planning. While this does not specify interviewing staff, ensuring the staff is a good fit for the individual is an integral part of person-centered planning and supports.*

28. I have an individual on my case load that does not want her guardian to be part of her quarterly and annual meetings. The team has respected this. However, there was a document sent out in September for meeting guidance due to the end of the national emergency. The document states that legal representatives are required to be present for all quarterly and annual meetings. This seems to go against empowering the person to state who comes to their meeting and who does not.

*Empowering the person to decide who attends their meetings doesn't negate legal responsibilities. For example, the CM is required to attend the meeting. The individual can certainly provide feedback that they'd prefer the CM not attend, but that will lead to different discussions. The individual's choice can be respected, but legal requirements also have to be honored.*