

[N.J.A.C. 10:53](#)

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 54 No. 24, December 19, 2022

NJ - New Jersey Administrative Code > TITLE 10. HUMAN SERVICES > CHAPTER 53. HOME- AND COMMUNITY-BASED SERVICES PROVIDED IN ASSISTED LIVING RESIDENCES, COMPREHENSIVE PERSONAL CARE HOMES, AND ASSISTED LIVING PROGRAMS

Title 10, Chapter 53 -- Chapter Notes

Statutory Authority

CHAPTER AUTHORITY:

[N.J.S.A. 30:4D-1](#) et seq., and [30:4J-8](#) et seq.

History

CHAPTER SOURCE AND EFFECTIVE DATE:

R.2022 d.152, December 19, 2022.

See: [54 N.J.R. 1463\(a\)](#), [54 N.J.R. 2389\(a\)](#).

CHAPTER HISTORICAL NOTE:

Chapter 53, Manual for Special Hospital Services, was filed and became effective April 27, 1990, as R.1990 d. 256. See: 22 N.J.R. 765(a), 22 N.J.R. 1598(c). Chapter 53 expired on April 27, 1995, pursuant to Executive Order 66 (1978).

Chapter 53, Home- and Community-Based Services Provided in Assisted Living Residences, Comprehensive Personal Care Homes, and Assisted Living Programs, was adopted as new rules by R.2022 d.152, effective December 19, 2022. See: Source and Effective Date.

Annotations

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Research References & Practice Aids

CHAPTER EXPIRATION DATE:

Chapter 53, Home- and Community-Based Services Provided in Assisted Living Residences, Comprehensive Personal Care Homes, and Assisted Living Programs, expires on December 19, 2029.

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§ 10:53-1.1 Scope

The rules in this chapter shall apply to assisted living residences, comprehensive personal care homes, and assisted living programs licensed by the Department of Health, in accordance with [N.J.A.C. 8:36](#) that are also enrolled Medicaid/NJ FamilyCare providers, providing services through the Home and Community Based Services (HCBS) waiver to Medicaid/NJ FamilyCare beneficiaries.

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§ 10:53-1.2 Purpose

The purpose of this chapter is to implement HCBS waiver provisions for services provided by assisted living residences, comprehensive personal care homes, and assisted living programs to Medicaid/NJ FamilyCare beneficiaries, which supplement the licensing requirements included at [N.J.A.C. 8:36](#).

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§ 10:53-1.3 Definitions

The following words and terms, as used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Assisted living program" means a program, licensed by the New Jersey Department of Health, in accordance with [N.J.A.C. 8:36](#), that offers assisted living services to the tenants/residents of certain publicly subsidized housing buildings by a provider capable of providing or arranging for assistance with personal care, and of nursing, pharmaceutical, dietary, and social work services to meet the individual needs of each resident. Individuals receiving services from an assisted living program reside in their own independent apartments and are responsible for their own rent and utility payments, as defined in a lease agreement with the landlord.

"Assisted living residence" means a facility that is licensed by the Department of Health, in accordance with [N.J.A.C. 8:36](#), to provide apartment-style housing and congregate dining and to ensure that assisted living services are available, when needed, for four or more adults unrelated to the proprietor. Apartment units offer, at a minimum, one unfurnished room, a private bathroom, a kitchenette, and a lockable door on the unit entrance.

"Comprehensive personal care home" means a facility that is licensed by the New Jersey Department of Health, in accordance with [N.J.A.C. 8:36](#), to provide room and board and to assure that assisted living services are available, when needed, to four or more adults unrelated to the proprietor. Residential units in comprehensive personal care homes house no more than two residents and have a lockable door on the unit entrance.

"Home and community based services (HCBS)" means the provision of services for Medicaid/NJ FamilyCare beneficiaries integrated into the community in homes and residences as an alternative to institutionalized care and services.

"Person-centered service plans" means the general service and health service plans at N.J.A.C. 8:36-7, Resident Assessments and Care Plans, that address an individual's long-term care needs and reflect the services and supports important to

the individual to meet his or her needs, as identified through an assessment of functional need.

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§ 10:53-2.1 Person-centered service plans

(a) In order for service providers to receive Medicaid/NJ FamilyCare reimbursement for HCBS, beneficiaries in assisted living residences, comprehensive personal care homes, and assisted living programs must have person-centered service plans that meet the requirements for general service and health service plans found at N.J.A.C. 8:36-7 and follow any applicable Managed Care Organization service plan requirements.

1. The beneficiary must have a leading role in creating the service plans, whenever possible, along with the participation of their representative, as needed, and defined by the beneficiary, or, where appointed, the beneficiary's guardian.

(b) To justify modifications to person-centered service plans, the following must be documented in the beneficiary's general service and/or health service plans:

1. The specific and individualized assessed need;

2. The positive interventions and supports used prior to any modifications to the person-centered service plans;

3. The less intrusive methods of meeting the need that have been tried, but did not work;

4. A clear description of the condition that is directly proportionate to the specific assessed need;

5. A regular collection and review of data to measure the ongoing effectiveness of the modification;

6. Established time limits for periodic reviews to determine if the modification is still necessary or can be terminated;

7. The informed consent of the beneficiary; and

8. Assurance that interventions and supports will cause no harm to the beneficiary.

(c) The person-centered planning process must offer informed choices to the beneficiary regarding the services and supports he or she receives and from whom.

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§ 10:53-2.2 General integrated residential setting

- (a) In order to be eligible to receive Medicaid/NJ FamilyCare reimbursement for the provision of HCBS to Medicaid/NJ FamilyCare beneficiaries in assisted living residences, assisted living programs, and comprehensive personal care homes, these beneficiaries must be integrated in, and have support to engage in, the greater community. This shall include, but not be limited to, providing the beneficiary with opportunities to seek employment, 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 persons not receiving Medicaid/NJ FamilyCare.
- (b) The beneficiary must have the ability to select their community residence from options including, but not limited to, assisted living residences and comprehensive personal care homes. Beneficiaries in publicly subsidized housing, where the housing authority has contracted with a licensed assisted living program provider, shall have the option to consider assisted living programs. The setting options must be identified and documented in the beneficiary's person-centered service plans and based on the person's needs, preferences, and resources available for room and board.
- (c) The assisted living residences, comprehensive personal care homes, and assisted living programs must ensure the beneficiary's rights of privacy, dignity, respect, as well as freedom from coercion and restraint. This shall include, at a minimum, the requirements at [N.J.A.C. 8:36-4.1\(a\)](#).
- (d) The assisted living residences, comprehensive personal care homes, and assisted living programs must optimize, but not regiment, individual initiative, autonomy, and independence in making life choices. This includes, but is not limited to, daily activities, physical environment, and personal interactions.
- (e) The assisted living residences, comprehensive personal care homes, and assisted living programs must facilitate individual choice regarding services and supports, and who provides them.

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§ 10:53-2.3 Facility setting

(a) In addition to the requirements at [N.J.A.C. 8:36](#), assisted living residences and comprehensive personal care homes must meet the following criteria for HCBS Medicaid/NJ Family Care reimbursement:

1. The unit or dwelling must be a specific physical place that can be rented or occupied pursuant to a legally enforceable lease agreement by the beneficiary that, at a minimum, must provide protections that address eviction processes and appeals comparable to those provided pursuant to applicable landlord/tenant law. If a residential lease is not utilized, the facility must enter into a residency agreement or other written agreement with the beneficiary and such agreement must have the same responsibilities and protections from eviction that tenants have pursuant to State, county, and municipal landlord/tenant laws.
2. The beneficiary must have privacy in his or her sleeping or living unit.
 - i. The unit must have entrance door(s) lockable by the beneficiary, with only appropriate staff having keys to doors;
 - ii. Beneficiaries sharing units must have a choice of roommates in that residence;
 - iii. The beneficiary must have the freedom to furnish and decorate his or her sleeping or living unit within the lease or other agreement;
3. The beneficiary must have the freedom and support to control his or her own schedules and activities;
4. The beneficiary must have access to food at any time;
5. The beneficiary must be able to have visitors of his or her choosing at any time;
6. The residence must be physically accessible to the beneficiary; and
7. The residential setting must not have the qualities of an institution and must have the qualities of a home and community-based setting.

(b) If any of the above requirements cannot be met, any limitations must be approved through a person-centered planning process and documented in the beneficiary's person-centered plan.

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§ 10:53-3.1 Licenses

- (a) In addition to the notice requirements at [N.J.A.C. 8:36](#), the assisted living residence or comprehensive personal care home must post its license from the Department of Health in a conspicuous location near the main entrance or office of the facility.
- (b) The assisted living program must conspicuously post a notice that its license is available to beneficiaries and the public at the program site and at the assisted living program provider's main office, in accordance with [N.J.A.C. 8:36-23.6](#).

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§ 10:53-3.2 Inspection and survey reports

- (a)** The assisted living residence or comprehensive personal care home must conspicuously post the most recent inspection report from the Department of Health in the entry or another equally prominent location in the building and, upon request, shall provide a copy of the report to each beneficiary or their legal guardian.
- (b)** The assisted living residence or comprehensive personal care home shall inform each beneficiary that he or she may review a copy of the survey report and a list of deficiencies, if applicable, from the last annual licensure inspection from the Department of Health and from any valid complaint investigation during the past 12 months.
- (c)** The assisted living program provider and each program site must conspicuously post notice that a copy of the last annual licensure inspection survey report and the list of deficiencies from any valid complaint investigation during the past 12 months is available for review.

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§ 10:53-3.3 Required contact information

- (a) Assisted living residences and comprehensive personal care homes must post the following contact information in a conspicuous location in the facility:
1. "911" for the police department and the fire department that serve the municipality in which the facility is located;
 2. The complaint hotline of the New Jersey Department of Health (1-800-792-9770); and
 3. The toll-free number for the office of the New Jersey Long-Term Care Ombudsman (1-877-582-6995).
- (b) The assisted living program provider and each program site shall conspicuously post a notice that the information listed at (a) above is available to residents and the public at the program site and at the assisted living program provider's main office.

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