



Cameras and Video Monitoring Equipment in Individual Bedrooms and Bathrooms

ODP Announcement 24-109

AUDIENCE:

Providers subject to 55 Pa.Code Chapters:

- 2380 (Relating to Adult Training Facilities)
- 2390 (Relating to Prevocational Facilities)
- 6100 (Relating to Services for an Individual with an Intellectual Disability or Autism)
- 6400 (Relating to Community Homes for Individuals with an Intellectual Disability or Autism)
- 6500 (Relating to Life Sharing Homes)

PURPOSE:

To inform providers of updated guidance regarding the use of cameras and video monitoring equipment in individual bedrooms and bathrooms.

DISCUSSION:

The Centers for Medicare and Medicaid Services (CMS) final Home and Community-Based Services (HCBS) regulations set forth new requirements to enhance the quality of HCBS and provide additional protections to individuals that receive services, for example the right to privacy.

Pennsylvania's CMS-approved *Consolidated, Community Living, Person/Family Directed Support, and Adult Autism Waivers*, read as follows:

Without exception, the use of cameras or video monitoring equipment in bedrooms and bathrooms is strictly prohibited.

To comply with the above measures, the Department of Human Services, Office of Developmental Programs ("Department") will consider camera or video monitoring equipment use in an individual's bedroom or bathroom to be a violation of the individual's right to privacy of person, as contemplated by the following regulations:

- § 2380.21(n) - An individual has the right to privacy of person and possessions.
- § 2390.21(n) - A client has the right to privacy of person and possessions.
- § 6100.182(h) - An individual has the right to privacy of person and possessions.
- § 6400.32(h) - An individual has the right to privacy of person and possessions.
- § 6500.32(h) - An individual has the right to privacy of person and possessions.

This applies to:

- Any setting that is owned, rented, leased, or operated by a Department licensed or enrolled provider.
- Cameras or video equipment in bedrooms and bathrooms in a private home that will be monitored by any staff person (employee, contractor, or consultant) as part of a waiver funded service¹.

¹ The only waiver services where monitoring of devices is currently allowed as part of service delivery are Remote Supports, Residential Habilitation, Life Sharing, and Supported Living. The guidance in this communication applies to these services.

GENERAL GUIDANCE:

- This guidance applies to all cameras and video monitoring equipment that capture information in bedrooms and bathrooms, even if the equipment is not physically located in bedrooms and bathrooms.
- This guidance does not apply to teleservices as outlined in the waivers. Teleservices are the delivery of certain direct services using remote technology, that allows for live two-way communication between the professional delivering service and the individual receiving the service. Monitoring of devices is not allowable under teleservices.
- The Department's position applies regardless of who requested the use of the camera or video monitoring equipment or the basis for which the camera or video monitoring equipment is to be used.
- If the Department finds that cameras or video monitoring equipment is being used in an individual's bedroom or bathroom, the applicable regulation(s) will be cited as a regulatory violation and resolved through the Plan of Correction / Corrective Action Plan process.

CONTACT:

Questions about this announcement or about compliance requirements for cameras that are currently in use may be directed to the appropriate Regional Office or to the Department's Regulatory Administration Unit at RA-PW6100REGADMIN@pa.gov.