



pennsylvania
DEPARTMENT OF HUMAN SERVICES

Home & Community-Based Settings Rule Annual Report

Fiscal Year 2022-2023



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ACRONYMS USED IN THIS REPORT

AAW	Adult Autism Waiver
CLW	Community Living Waiver
CMS	Centers for Medicare and Medicaid Services
CPS	Community Participation Supports
DHS	Department of Human Services
FY	Fiscal Year
HCBS	Home and Community Based Services
ID/A	Intellectual Disability or Autism
ODP	Office of Developmental Programs
P/FDS	Person/Family Directed Support
QA&I	Quality Assessment and Improvement

A. INTRODUCTION

ABOUT THE HCBS SETTINGS RULE

The Home and Community-Based Services (HCBS) Rule became effective in March of 2014 and was created by the Centers for Medicare and Medicaid Services (CMS) to enhance the quality of HCBS, provide protections to individuals, and to ensure individuals receiving HCBS have full access to the benefits of community living and the opportunity to receive services in the most integrated setting appropriate. This includes opportunities to seek employment, work in competitive and integrated settings, engage in community life, control personal resources, and receive services in the community to the same degree as people who do not receive HCBS.

The Office of Developmental Programs (ODP) HCBS waivers include the Consolidated, Community Living (CLW), Person/Family Directed Support (P/FDS), and Adult Autism (AAW) waivers. The CMS HCBS Rule requires states to assess all services and service locations that receive funding or payment through an approved HCBS waiver. To meet these expectations, ODP incorporated requirements into licensing and programmatic regulations 55 Pa. Code Chapters 2380, 2390, 6100, 6400, and 6500, that align with the HCBS Rule, and were published on October 5, 2019, with most requirements effective on February 1, 2020.

This report provides results from licensing inspections completed in Fiscal Year 2022-2023 (FY 22-23), between July 1, 2022, and June 30, 2023, for service locations licensed under 55 Pa. Code Chapters 2380, 2390, 6400, or 6500. In addition to providing detailed licensing inspection results about compliance with the HCBS Rule, this report also includes HCBS Rule-related Quality Assessment and Improvement (QA&I) full review results from FY 22-23 for Administrative Entities (AEs), Support Coordination Organizations (SCOs), and Providers. For more details about the QA&I full review process, please see the latest [QA&I Annual Statewide Report for FY 22-23](#) located on MyODP.

LICENSING INSPECTION METHODS

ODP identified requirements in Chapters 2380, 2390, 6400 and 6500 that align with the HCBS Rule. See applicable regulations [here](#). Then ODP reviewed licensing inspection data for these requirements, gathered during renewal inspections and partial inspections completed in FY 22-23. A renewal inspection is one where a licensee's compliance with all regulations is measured to determine whether the licensee should remain licensed. A partial inspection is one where a licensee's compliance with a subset of regulations is measured in response to a complaint, reported incident, or as part of a monitoring schedule (licensees who are on a provisional license or who are operating pending appeal are subject to regular unannounced monitoring inspections).

It should be noted that Chapter 2380 and Chapter 2390 licensees operate distinct facilities, with one license issued to each facility. Inspection findings are for each distinct facility. In this document, “inspection” of a Chapter 2380 or Chapter 2390 facility means that it is an inspection of a distinct facility, or a single home, as part of a Renewal or Partial Inspection, depending on the chapter of regulations for which data is being presented.

Conversely, Chapter 6400 and Chapter 6500 licenses allow for multiple homes to be covered by a single license, issued to an agency that is responsible for the operation of each home. Each home is counted as an “inspection” in ODP’s data. Renewal and Partial Licensing Inspections consist of multiple inspections, since multiple homes operated by the agency, under one license, are inspected.

To determine whether a home or facility was compliant with each regulatory requirement, ODP’s regulatory professionals visually confirmed compliance (when applicable) and reviewed policies, procedures, training records, service notes, progress notes and other relevant documentation maintained by the provider. Regulatory professionals also interview staff that work in the home or facility, as well as individuals who receive services in the home or facility.

Licensees must develop and implement a plan to correct any identified violations, after which the regulatory professionals will verify that the plan was implemented, and compliance has been achieved. If the plan was not implemented and the home or facility remains noncompliant, they will be issued a short-term, provisional “warning” license, or the license to operate may be revoked.

Pennsylvania requires that all Adult Training Facilities, Vocational Facilities, Community Homes, and Life Sharing Homes be licensed in accordance with state statutes and regulations. The following waiver services may be provided in these licensed settings:

- Community Participation Support (CPS),
- Day Habilitation,
- Residential Habilitation; and,
- Life Sharing

DATA SOURCES

The source for licensing data in this report is ODP’s Certification and Licensing System (CLS). The source for Quality Assessment and Improvement (QA&I) data in this report is ODP’s QA&I oversight process.

SUMMARY OF LICENSING FINDINGS FOR FY 22-23

- ❖ 86% (up 3% from FY 21-22) of day programs were in full compliance with the HCBS Rule regulations at the time of the inspection.
- ❖ 90% of residential programs were in full compliance with the HCBS Rule regulations at the time of the inspection.
- ❖ In locations where HCBS Rule violations were found, only one HCBS Rule violation was identified in the majority of those locations.
- ❖ Most HCBS Rule violations were related to individual rights. The most common violations of individual rights were failure to inform individuals of and explain their rights; discrimination against individuals because of race, color, creed, disability, religious affiliation, ancestry, gender, gender identity, sexual orientation, national origin or age; and not providing individuals the opportunity to lock their bedroom doors.
- ❖ In locations where a HCBS Rule violation was found, 93% (up 5% from FY 21-22) fully corrected the violation. The remaining 7% were subjected to sanctions for failure to comply with requirements.

COMPARING LICENSING FINDINGS FOR FY 20-21, FY 21-22, & FY 22-23

This is the third annual HCBS Settings Rule report produced by ODP. The first report, [here](#), covers FY 20-21. The second report, [here](#), covers FY 21-22. ODP compared the findings in these reports to the findings for FY 22-23 to determine whether and how the findings had changed.

- ❖ The most common violations found in Chapters 2380, 6400, and 6500 facilities, for FY 22-23, were largely identical to those found in FY 20-21 and FY 21-22.
- ❖ Failure to inform of and explain individual rights was the most common Chapter 2390 violations across all 3 years. Although there was a significant increase in violations relating to staff training in FY 21-22 (29%), this significantly improved in FY 22-23 (down to 11%).
- ❖ The distribution of the number of violations generally remained the same in FY 22-23, compared to the 2 previous years, in that 88% of locations had no HCBS Rule violations, 9% had 1 violation, 1.5% had 2 violations and the remaining 1% had 3 or more violations.
- ❖ Comparison of findings for HCBS Settings Rule compliance generally remained the same or improved—in Chapters 2380, 6400, and 6500 facilities—from FY 20-21 to FY 21-22. Rule compliance dipped slightly or remained the same in FY 22-23 for these facilities.

B. HCBS SERVICES BY WAIVER AND DISTRIBUTION OF LICENSING VIOLATIONS

Figure 1. Licensed Services Rendered by ODP Waiver

SETTING	WAIVER SERVICES RENDERED				
	CPS (ID/A Waivers)	Day Habilitation (AAW)	Residential Habilitation (CLW & Consolidated)	Residential Habilitation (AAW)	Life Sharing (CLW & Consolidated)
Adult Training Facilities (Chapter 2380)	X	X			
Vocational Facilities (Chapter 2390)	X				
Community Homes (Chapter 6400)			X	X	
Life Sharing Homes (Chapter 6500)				X	X

Figure 2. Locations Where No HCBS Rule Violations Found

SETTING	LOCATIONS INSPECTED		VIOLATIONS NOT FOUND	
	FY 21-22	FY 22-23	FY 21-22	FY 22-23
Adult Training Facilities (Chapter 2380)	287	317	240 / 84%	277 / 87%
Vocational Facilities (Chapter 2390)	80	91	66 / 82%	77 / 85%
Community Homes (Chapter 6400)	3,090	3,539	2,795 / 90%	3074 / 87%
Life Sharing Homes (Chapter 6500)	569	580	514 / 90%	536 / 92%
TOTAL	4,026	4,527	3,615 / 90%	3,964 / 88%

Figure 3. Percentages of HCBS Rule Violations by Regulatory Chapter

Regulatory Chapter								
# of Violations	FY 21-22				FY 22-23			
	2380	2390	6400	6500	2380	2390	6400	6500
0	84%	83%	90%	90%	87%	85%	87%	92%
1	15%	18%	7%	8%	11%	11%	10%	4%
2	1%	0%	2%	1%	1%	1%	2%	2%
3	0%	0%	0.4%	0.4%	0.3%	2%	1%	1%
4	0%	0%	0.3%	0.2%	0%	0%	0.2%	0.3%
5+	0%	0%	0.3%	0.2%	0%	1%	0.3%	0.3%

Figure 4. Inspections & Locations with No HCBS Rule Violations

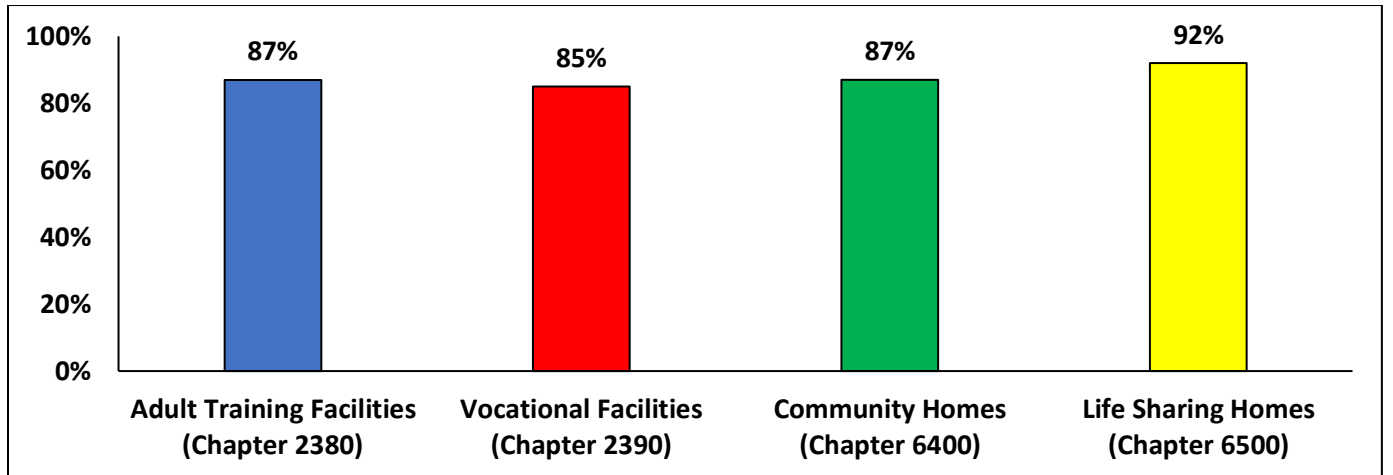
SETTING	INSPECTIONS with NO VIOLATIONS			LOCATIONS with NO VIOLATIONS		
	Completed Inspections*	Number	Percent	Locations Inspected*	Number	Percent
Adult Training Facilities (Chapter 2380)	344	303	88%	317	277	87%
Vocational Facilities (Chapter 2390)	94	80	85%	91	77	85%
Community Homes (Chapter 6400)	4,300	3,795	88%	3,539	3,074	87%
Life Sharing Homes (Chapter 6500)	590	546	93%	580	536	92%
TOTAL	5,328	4,724	89%	4,527	3,964	88%

Figure 5. Distribution of HCBS Rule Violations by Regulatory Chapter

SETTING	DISTRIBUTION OF VIOLATIONS by Number of Locations Inspected*				
	1	2	3	4	5+
Adult Training Facilities (Chapter 2380)	36 / 11%	3 / 1%	1 / 0.3%	0 / 0%	0 / 0%
Vocational Facilities (Chapter 2390)	10 / 11%	1 / 1%	2 / 2%	0 / 0%	1 / 1%
Community Homes (Chapter 6400)	346 / 10%	76 / 2%	23 / 0.7%	8 / 0.2%	12 / 0.3%
Life Sharing Homes (Chapter 6500)	25 / 4%	9 / 2%	6 / 1%	2 / 0.3%	2 / 0.3%

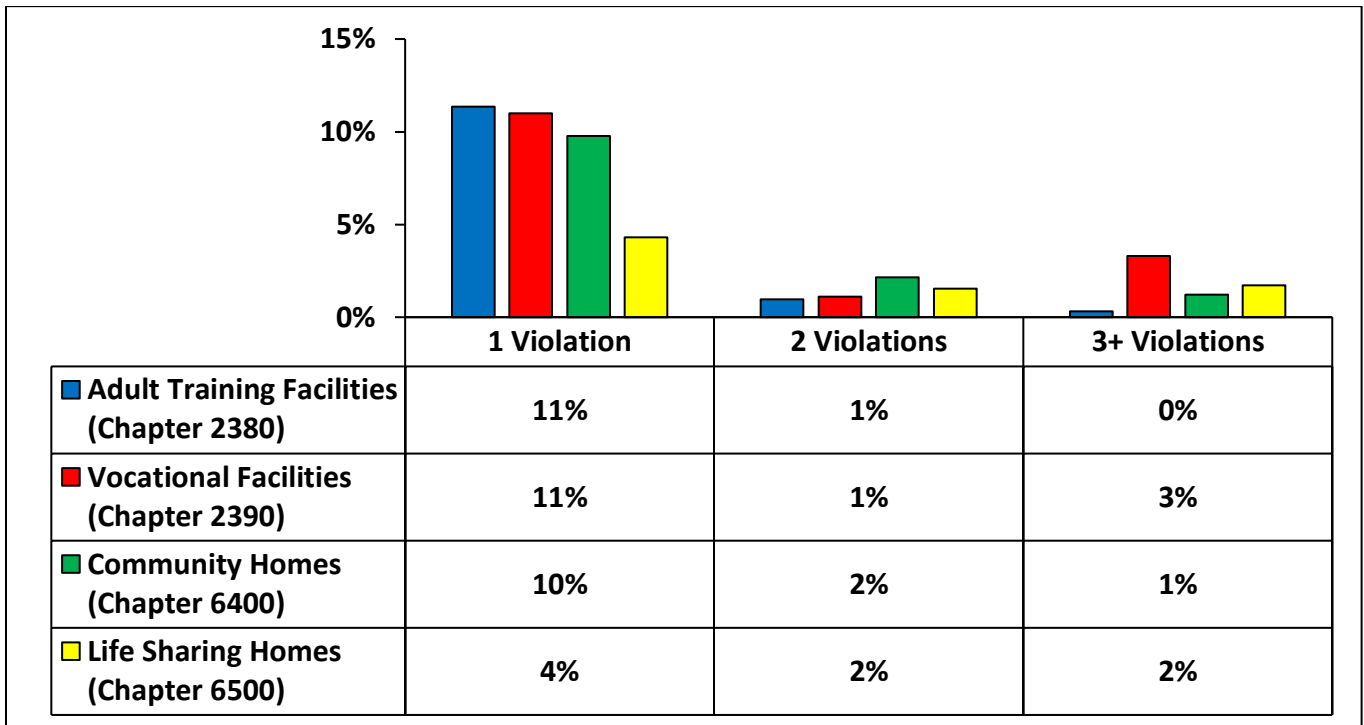
*Number of inspections completed exceeds the number of facilities/homes inspected, usually because of partial inspections conducted, in addition to a renewal inspection, during the year. Additionally, facilities/homes on a provisional license are subject to at least two renewal inspections during the year, as provisional licenses do not exceed six months.

Figure 6. Number & Percent of Locations with Zero HCBS Rule Violations



SETTING	Number of Facilities	Percent of Locations with Zero Violations
Adult Training Facilities (Chapter 2380)	277	87%
Vocational Facilities (Chapter 2390)	77	85%
Community Homes (Chapter 6400)	3,074	87%
Life Sharing Homes (Chapter 6500)	536	92%
ALL SETTINGS TOTAL	3,964	88%

Figure 7. Distribution of Number of HCBS Rule Violations by Percent of Locations Inspected



C. LICENSING FINDINGS BY SETTING TYPE

In each of the sections to follow, for each setting type, in addition to the number of violations found, ODP identifies:

- Which HCBS Rule requirements were violated,
- The number of times the requirement was violated, and
- The percent of the total number of HCBS Rule violations based on the number of locations inspected.



CHAPTER 2380: ADULT TRAINING FACILITIES LICENSING INSPECTION RESULTS

Figure 8: Number & Percent of Adult Training Facilities with Number of HCBS Rule Violations

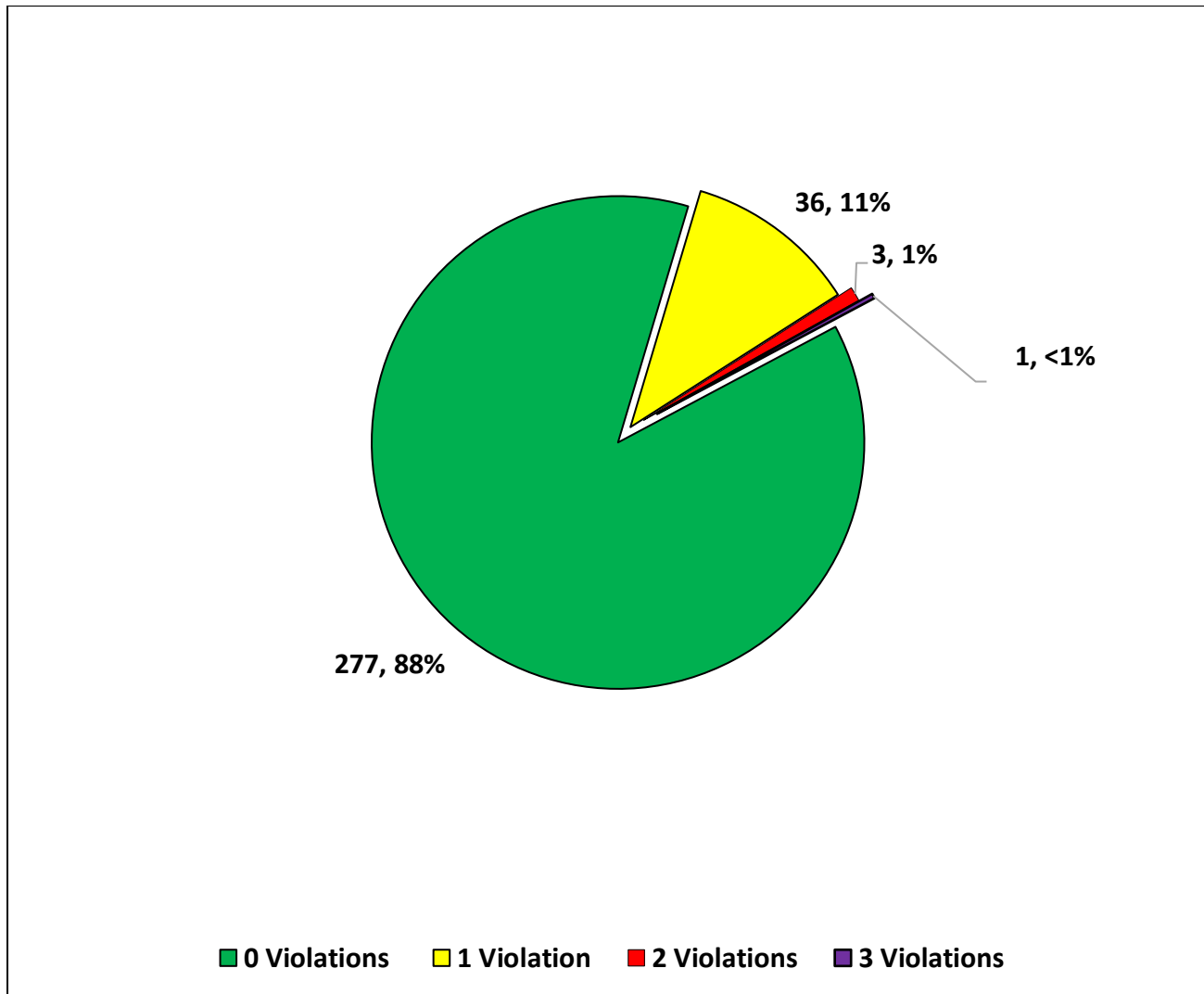


Figure 9: 2380 Licensing Inspections & HCBS Rule Violation Details

ADULT TRAINING FACILITIES: NUMBER OF VIOLATIONS <i>(Licensed Under Chapter 2380)</i>			
Regulation	Description	Number of Violations Found	Percent of HCBS Violations
2380.21(u)	The facility shall inform and explain individual rights and the process to report a rights violation to the individual, and persons designated by the individual, upon admission to the facility and annually thereafter.	22	49%
2380.37(a)	Records of orientation and training, including the training source, content, dates, length of training, copies of certificates received and persons attending, shall be kept.	10	22%
2380.21(v)	The facility shall keep a copy of the statement signed by the individual or the individual's court-appointed legal guardian, acknowledging receipt of the information on individual rights.	3	7%
2380.188(a)	The facility shall provide services including assistance, training and support for the acquisition, maintenance or improvement of functional skills, personal needs, communication, and personal adjustment.	2	4%
2380.176(a)	Individual records shall be kept locked when they are unattended.	2	4%
2380.21(t)	An individual's rights may only be modified in accordance with § 2380.185 (relating to content of the individual plan) to the extent necessary to mitigate a significant health and safety risk to the individual or others.	1	2%
2380.21(s)	The facility shall assist the affected individuals to negotiate choices in accordance with the facility's procedures for the individuals to resolve differences and make choices.	1	2%
2380.21(r)	An individual's rights shall be exercised so that another individual's rights are not violated.	1	2%
2380.21(o)	An individual has the right of access to and security of the individual's possessions.	1	2%
2380.155(b)	The behavior support component of the individual plan shall be reviewed and revised as necessary by the human rights team, according to the time frame established by the team, not to exceed 6 months between reviews.	1	2%
2380.155(a)	For each individual for whom a restrictive procedure may be used, the individual plan shall include a component addressing behavior support that is reviewed and approved by the human rights team in § 2380.154 (relating to human rights team), prior to use of a restrictive procedure.	1	2%
	Total	45	

CHAPTER 2390: VOCATIONAL FACILITIES LICENSING INSPECTION RESULTS

Figure 10: Summary of Noncompliant 2390 Licensing Inspection Results

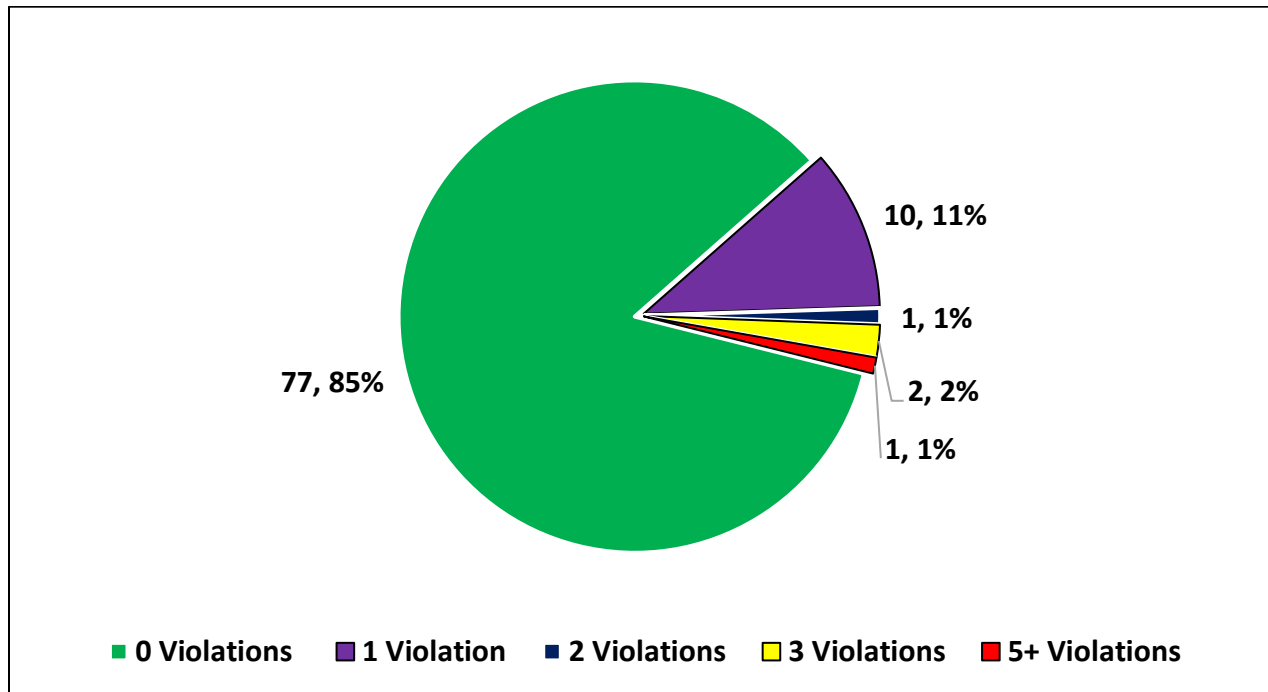


Figure 11: 2390 Licensing Inspections & HCBS Rule Violation Details

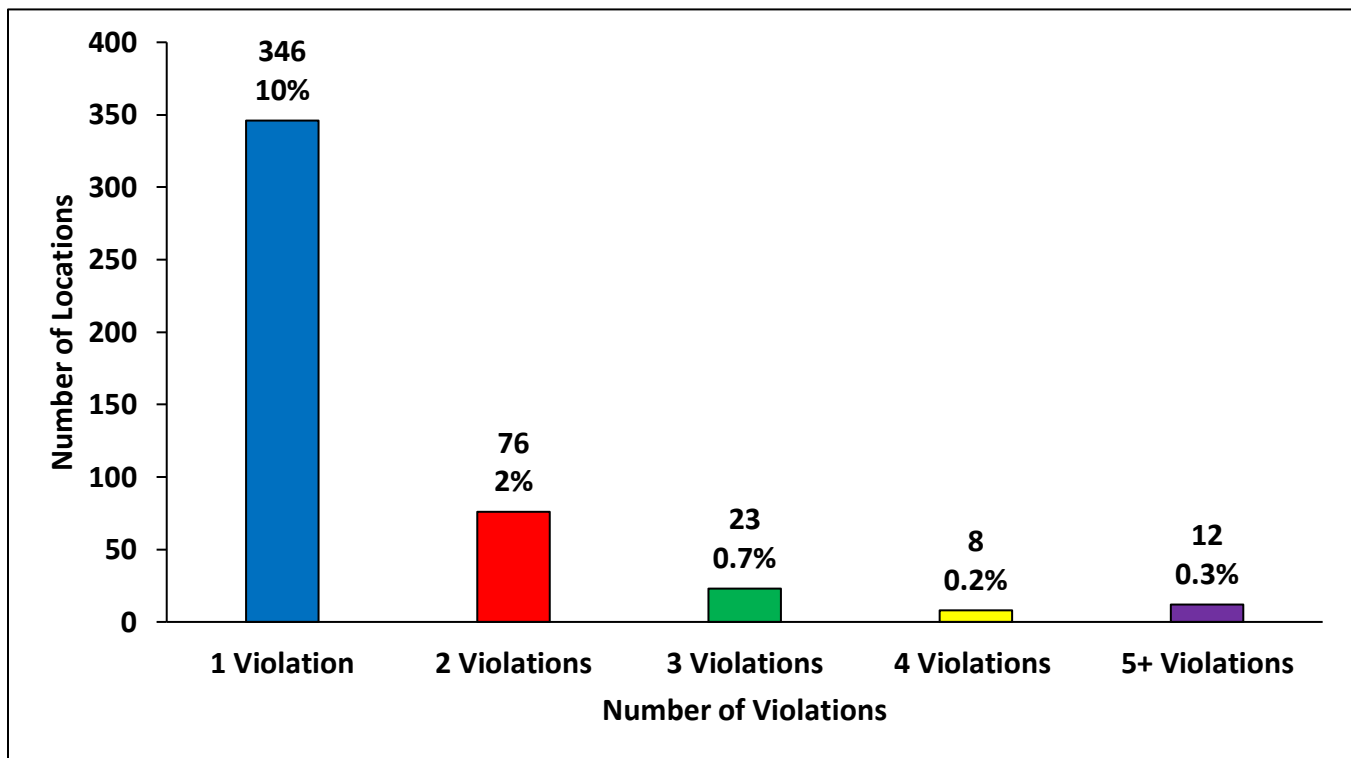
VOCATIONAL FACILITIES: NUMBER OF VIOLATIONS FOUND (Licensed Under Chapter 2390)			
Regulation	Description	Number of Violations Found	Percent of HCBS Violations
2390.21(u)	The facility shall inform and explain client rights and the process to report a rights violation to the client, and persons designated by the client, upon admission to the facility and annually thereafter.	9	33%
2390.40(a)	Records of orientation and training, including the training source, content, dates, length of training, copies of certificates received and persons attending, shall be kept.	3	11%
2390.21(v)	The facility shall keep a copy of the statement signed by the client, or the client's court-appointed legal guardian, acknowledging receipt of the information on client rights.	3	11%
2390.21(t)	A client's rights may only be modified in accordance with § 2390.155 (relating to content of the individual plan) to the extent necessary to mitigate a significant health and safety risk to the client or others.	1	4%

VOCATIONAL FACILITIES: NUMBER OF VIOLATIONS FOUND
(Licensed Under Chapter 2390)

Regulation	Description	Number of Violations Found	Percent of HCBS Violations
2390.21(s)	The facility shall assist the affected clients to negotiate choices in accordance with the facility's procedures for the clients to resolve differences and make choices.	1	4%
2390.21(r)	A client's rights shall be exercised so that another client's rights are not violated.	1	4%
2390.21(l)	A client has the right to make choices and accept risks.	1	4%
2390.21(j)	A client may not be abused, neglected, mistreated, exploited, abandoned or subjected to corporal punishment.	1	4%
2390.21(i)	A client has the right to civil and legal rights afforded by law, including the right to vote, speak freely, practice the religion of the client's choice and practice no religion	1	4%
2390.21(g)	A client has the right to designate persons to assist in decision-making and exercising rights on behalf of the client.	1	4%
2390.21(f)	A client who has a court-appointed legal guardian, or who has a court order restricting the client's rights, shall be involved in decision-making in accordance with the court order.	1	4%
2390.21(e)	A court-appointed legal guardian may exercise rights and make decisions on behalf of a client in accordance with the conditions of guardianship as specified in the court order.	1	4%
2390.21(d)	A court's written order that restricts a client's rights shall be followed.	1	4%
2390.21(b)	The facility shall educate, assist and provide the accommodation necessary for the client to understand the client's rights.	1	4%
2390.21(a)	A client may not be deprived of rights	1	4%
	Total	27	

CHAPTER 6400: COMMUNITY HOMES LICENSING INSPECTION RESULTS

Figure 12: Summary of Noncompliant 6400 Licensing Inspection Results



Note: Total number of locations inspected = 3,539; total number of locations with no violations = 3,074.

Figure 13: 6400 Licensing Inspections & HCBS Rule Violation Details

COMMUNITY HOMES: NUMBER OF VIOLATIONS FOUND (Licensed Under Chapter 6400)			
Regulation	Description	Number of Violations Found	Percent of HCBS Violations
6400.32(r)	An individual has the right to lock the individual’s bedroom door.	98	14%
6400.34(a)	An individual may not be discriminated against because of race, color, creed, disability, religious affiliation, ancestry, gender, gender identity, sexual orientation, national origin, or age.	97	14%
6400.32(c)	An individual may not be abused, neglected, mistreated, exploited, abandoned, or subjected to corporal punishment.	57	8%
6400.22(d)(1)	The home shall keep an up-to-date financial and property record for each individual that includes the following: Personal possessions and funds received by or deposited with the home.	57	8%
6400.22(c)	Individual funds and property shall be used for the individual’s benefit.	37	5%

COMMUNITY HOMES: NUMBER OF VIOLATIONS FOUND
(Licensed Under Chapter 6400)

Regulation	Description	Number of Violations Found	Percent of HCBS Violations
6400.22(e)(3)	The record of an individual's financial resources must include documentation, by actual receipt or expense record, of each single purchase exceeding \$15 made on behalf of the individual carried out by or in conjunction with a staff person.	29	4%
6400.32(d)	An individual shall be treated with dignity and respect.	25	4%
6400.32(r)(4)	The bedroom door locking mechanism shall allow easy and immediate access by the individual and staff persons in the event of an emergency.	23	3%
6400.32(r)(1)	Locking may be provided by a key, access card, keypad code or other entry mechanism accessible to the individual to permit the individual to lock and unlock the door.	23	3%
6400.22(d)(2)	The home shall keep an up-to-date financial and property record for each individual that includes the following: Disbursements made to or for the individual.	20	3%
6400.34(b)	The home shall keep a copy of the statement signed by the individual, or the individual's court-appointed legal guardian, acknowledging receipt of the information on individual rights.	19	3%
6400.22(e)(1)	The record of an individual's financial resources must include a separate record of financial resources, including the dates and amounts of deposits and withdrawals.	18	3%
6400.32(r)(5)	Direct service workers who provide services to the individual shall have the key or entry device to lock and unlock the door.	17	3%
6400.32(t)	An individual has the right to access food at any time.	16	2%
6400.32(i)	An individual has the right of access to and security of the individual's possessions.	11	2%
6400.22(f)	An individual has the right to refuse to participate in activities and services.	11	2%
6400.32(h)	An individual has the right to privacy of person and possessions.	11	2%
6400.195(a)	For each individual for whom a restrictive procedure may be used, the individual plan shall include a component addressing behavior support that is reviewed and approved by the human rights team in § 6400.194 (relating to human rights team), prior to use of a restrictive procedure.	11	2%
6400.31(b)	The home shall educate, assist, and provide the accommodation necessary for the individual to make choices and understand the individual's rights.	9	1%
6400.32(s)	An individual has the right to have a key, access card, keypad code or other entry mechanism to lock and unlock an entrance door of the home.	9	1%

COMMUNITY HOMES: NUMBER OF VIOLATIONS FOUND
(Licensed Under Chapter 6400)

Regulation	Description	Number of Violations Found	Percent of HCBS Violations
6400.32(n)	An individual has the right to unrestricted and private access to telecommunications.	7	1%
6400.32(g)	An individual has the right to control the individual's own schedule and activities.	7	1%
6400.32(v)	An individual's rights may only be modified in accordance with § 6400.185 (relating to content of the individual plan) to the extent necessary to mitigate a significant health and safety risk to the individual or others.	7	1%
6400.22(a)	There shall be a written policy that establishes procedures for the protection and adequate accounting of individual funds and property and for counseling the individual concerning the use of funds and property.	6	1%
6400.61(b)	A home serving individuals with a physical disability, blindness, a visual impairment, deafness or a hearing impairment shall have adaptive equipment necessary for the individuals to move about and function at the home.	6	1%
6400.22(e)(2)	The record of an individual's financial resources must include the amount of funds given directly to the individual.	6	1%
6400.32(e)	An individual has the right to make choices and accept risks.	5	1%
6400.61(a)	A home serving individuals with a physical disability, blindness, a visual impairment, deafness, or a hearing impairment shall have accommodations to ensure the safety and reasonable accessibility for entrance to, movement within and exit from the home based upon each individual's needs.	5	1%
6400.32(u)	An individual has the right to make health care decisions.	4	1%
6400.32(o)	An individual has the right to manage and access the individual's finances.	3	0%
6400.188(b)	The home shall provide opportunities and support to the individual for participation in community life, including volunteer or civic-minded opportunities and membership in National or local organizations.	2	0%
6400.32(r)(3)	Assistive technology shall be provided as needed to allow the individual to lock and unlock the bedroom door without assistance.	2	0%
6400.188(a)	The home shall provide services, including assistance, training and support for the acquisition, maintenance or improvement of functional skills, personal needs, communication and personal adjustment.	2	0%

COMMUNITY HOMES: NUMBER OF VIOLATIONS FOUND
(Licensed Under Chapter 6400)

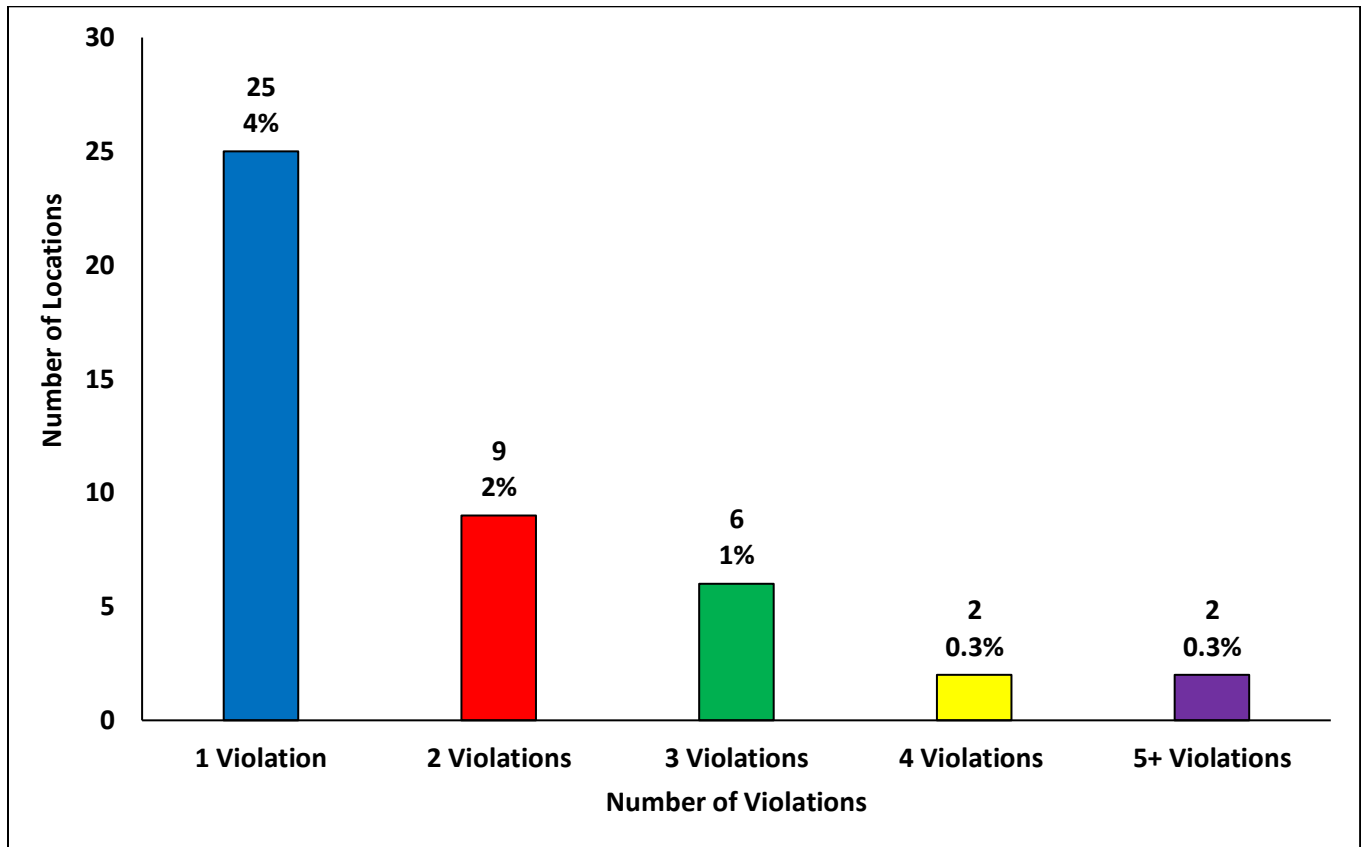
Regulation	Description	Number of Violations Found	Percent of HCBS Violations
6400.32(q)	An individual has the right to furnish and decorate the individual's bedroom and the common areas of the home in accordance with § 6400.33 (relating to negotiation of choices).	2	0%
6400.32(p)	An individual has the right to choose persons with whom to share a bedroom.	2	0%
6400.31(a)	An individual may not be deprived of rights	2	0%
6400.210(b) (1)	An individual's personal funds or property may not be used as payment for damages unless the individual consents to make restitution for the damages. The following consent provisions apply unless there is a court-ordered restitution: A separate written consent is required for each incidence of restitution.	1	0%
6400.188(c)	The home shall provide services to the individual as specified in the individual plan.	1	0%
6400.190(a) (2)	The residential home shall provide recreational and social activities, including volunteer or civic-minded opportunities and membership in National or local organizations at the following locations: Away from the residential home.	1	0%
6400.190(c)	Documentation of recreational and social activities shall be kept in the individual's record.	1	0%
6400.195(c) (4)	The behavior support component of the individual plan shall include: A target date to achieve the outcome.	1	0%
6400.31(f)	An individual who has a court-appointed legal guardian, or who has a court order restricting the individual's rights, shall be involved in decision-making in accordance with the court order.	1	0%
6400.195(c) (7)	The behavior support component of the individual plan shall include: The amount of time the restrictive procedure may be applied.	1	0%
6400.22(b)	The home's policy may not prohibit the individual's right to manage the individual's own finances.	1	0%
6400.32(m)	An individual has the right to unrestricted access to send and receive mail and other forms of communications, unopened and unread by others, including the right to share contact information with whom the individual chooses.	1	0%
6400.32(f)	An individual has the right to refuse to participate in activities and services.	1	0%
6400.32(a)	An individual may not be discriminated against because of race, color, creed, disability, religious affiliation, ancestry, gender, gender identity, sexual orientation, national origin or age.	1	0%

COMMUNITY HOMES: NUMBER OF VIOLATIONS FOUND
(Licensed Under Chapter 6400)

Regulation	Description	Number of Violations Found	Percent of HCBS Violations
6400.32(s)(2)	The locking mechanism on the entrance to the home shall allow easy and immediate access by the individual and staff persons in the event of an emergency.	1	0%
6400.195(c)(6)	The behavior support component of the individual plan shall include: Types of restrictive procedures that may be used and the circumstances under which the procedures may be used.	1	0%
	Total	679	

CHAPTER 6500: LIFE SHARING HOMES LICENSING INSPECTION RESULTS

Figure 14: Number and Percent of Life Sharing Homes with 1 or more HCBS Violations



Note: Total number of locations inspected = 580 and the number of locations with no violations = 536.

Figure 15: 6500 Licensing Inspections & HCBS Rule Violation Details

LIFE SHARING HOMES: NUMBER OF VIOLATIONS FOUND (Licensed Under Chapter 6500)			
Regulation	Description	Number of Violations Found	Percent of HCBS Violations
6500.34(a)	Individual rights and the process to report a rights violation shall be explained to the individual, and persons designated by the individual, prior to moving into the home and annually thereafter.	18	23%
6500.24(d)(1)	An up-to-date financial and property record shall be kept for each individual that includes the following: Personal possessions and funds received by or deposited with the family or agency.	11	14%

LIFE SHARING HOMES: NUMBER OF VIOLATIONS FOUND
(Licensed Under Chapter 6500)

Regulation	Description	Number of Violations Found	Percent of HCBS Violations
6500.32(r)(1)	An individual has the right to lock the individual's bedroom door. Locking may be provided by a key, access card, keypad code or other entry mechanism accessible to the individual to permit the individual to lock and unlock the door.	8	10%
6500.24(f)	There may not be commingling of the individual's personal funds with agency or household funds.	7	9%
6500.24(c)	An individual's funds and property shall be used for the individual's benefit.	7	9%
6500.24(d)(2)	An up-to-date financial and property record shall be kept for each individual that includes the following: Disbursements made to or for the individual.	6	8%
6500.24(e)(3)	[There shall be] documentation, by actual receipt or expense record, of each single purchase exceeding \$15 made on behalf of the individual carried out by family members or agency staff.	4	5%
6500.32(c)	An individual may not be abused, neglected, mistreated, exploited, abandoned or subjected to corporal punishment.	3	4%
6500.32(s)	An individual has the right to have a key, access card, keypad code or other entry mechanism to lock and unlock an entrance door of the home.	3	4%
6500.32(r)(4)	The bedroom door locking mechanism shall allow easy and immediate access by the individual and staff persons in the event of an emergency.	3	4%
6500.24(e)(1)	[There shall be] A separate record of financial resources including the dates and amounts of deposits and withdrawals.	3	4%
6500.31(d)	A court's written order that restricts an individual's rights shall be followed.	1	1%
6500.32(f)	An individual has the right to refuse to participate in activities and services.	1	1%
6500.61(b)	A home serving an individual with a physical disability, blindness, a visual impairment, deafness or a hearing impairment shall have adaptive equipment necessary for the individual to move about and function at the home.	1	1%
6500.32(g)	An individual has the right to control the individual's own schedule and activities.	1	1%
6500.32(h)	An individual has the right to privacy of person and possessions.	1	1%
6500.32(l)	An individual has the right to receive scheduled and unscheduled visitors, and to communicate and meet privately with whom the individual chooses, at any time.	1	1%

LIFE SHARING HOMES: NUMBER OF VIOLATIONS FOUND <i>(Licensed Under Chapter 6500)</i>			
Regulation	Description	Number of Violations Found	Percent of HCBS Violations
6500.32(e)	An individual has the right to make choices and accept risks.	1	1%
	Total	80	

D. LICENSING SANCTIONS FOR HCBS RULE NONCOMPLIANCE

Of the 563 locations where 1 or more HCBS Rule violations were found, 93% (526) developed and implemented plans of correction and were able to retain full licensure. The remaining 37 locations, operated by 18 agencies, did not correct their violation(s) and were subject to sanctions as described below. All agencies subjected to sanctions held Chapter 6400 licensure; 1 agency also held Chapter 2380 licensure.

- ❖ 12 of 18 agencies were issued a provisional license for failure to correct 1 or more HCBS Rule violations. Of these, 8 returned to regular license status and 4 remain on provisional license status as of the writing of this report. One of the 4 that remain on provisional status is the Chapter 2380 licensee.
- ❖ 6 of 18 agencies' licenses were revoked for failure to correct 1 or more HCBS Rule violations. Of these, 5 licensees appealed the decision and continue to operate pending a ruling on the appeal. The remaining licensee ceased operations. The individuals supported by this licensee selected and are now served by new willing and qualified providers.
- ❖ All 18 agencies subjected to sanctions were banned from admitting new individuals or adding new service locations until their regular license status is/was achieved. The ban remains in place for any agencies still on provisional license status or that are operating pending appeal of a license revocation.

The uncorrected Chapter 2380 violation that resulted in the issuance of a provisional license was § 2380.155(a), "for each individual for whom a restrictive procedure may be used, the individual plan shall include a component addressing behavior support that is reviewed and approved by the human rights team in § 2380.154 (relating to human rights team), prior to use of a restrictive procedure."

The table that follows identifies which HCBS Rule regulations were violated by the Chapter 6400 providers subjected to sanctions. It includes the number of times the HCBS Rule regulation was violated by locations and the percentage of the total number of those violations.

Figure 16. 6400 Licensing Inspections & Sanction Details

COMMUNITY HOMES: NUMBER OF LICENSING INSPECTIONS <i>(Licensed Under Chapter 6400)</i>			
Regulation	Description	Number of Locations Cited	Percent of HCBS Violations
6400.32(c)	An individual may not be abused, neglected, mistreated, exploited, abandoned, or subjected to corporal punishment.	13	19%
6400.22(d)(1)	The home shall keep an up-to-date financial and property record for each individual that includes the following: Personal possessions and funds received by or deposited with the home.	9	13%
6400.34(a)	An individual may not be discriminated against because of race, color, creed, disability, religious affiliation, ancestry, gender, gender identity, sexual orientation, national origin, or age.	7	10%
6400.32(d)	An individual shall be treated with dignity and respect.	6	9%
6400.32(g)	An individual has the right to control the individual's own schedule and activities.	5	7%
6400.22(e)(1)	The record of an individual's financial resources must include a separate record of financial resources, including the dates and amounts of deposits and withdrawals.	3	4%
6400.32(r)	An individual has the right to lock the individual's bedroom door.	3	4%
6400.22(c)	Individual funds and property shall be used for the individual's benefit.	3	4%
6400.32(r)(1)	Locking may be provided by a key, access card, keypad code or other entry mechanism accessible to the individual to permit the individual to lock and unlock the door.	3	4%
6400.188(b)	The home shall provide opportunities and support to the individual for participation in community life, including volunteer or civic-minded opportunities and membership in National or local organizations.	2	3%
6400.195(a)	For each individual for whom a restrictive procedure may be used, the individual plan shall include a component addressing behavior support that is reviewed and approved by the human rights team in § 6400.194 (relating to human rights team), prior to use of a restrictive procedure.	2	3%
6400.32(t)	An individual has the right to access food at any time.	2	3%
6400.22(e)(3)	The record of an individual's financial resources must include documentation, by actual receipt or expense record, of each single purchase exceeding \$15 made on behalf of the individual carried out by or in conjunction with a staff person.	2	3%
6400.32(r)(5)	Direct service workers who provide services to the individual shall have the key or entry device to lock and unlock the door.	1	1%

COMMUNITY HOMES: NUMBER OF LICENSING INSPECTIONS
(Licensed Under Chapter 6400)

Regulation	Description	Number of Locations Cited	Percent of HCBS Violations
6400.22(f)	An individual has the right to refuse to participate in activities and services.	1	1%
6400.22(d)(2)	The home shall keep an up-to-date financial and property record for each individual that includes the following: Disbursements made to or for the individual.	1	1%
6400.32(r)(3)	Assistive technology shall be provided as needed to allow the individual to lock and unlock the bedroom door without assistance.	1	1%
6400.32(e)	An individual has the right to make choices and accept risks.	1	1%
6400.32(h)	An individual has the right to privacy of person and possessions.	1	1%
6400.32(n)	An individual has the right to unrestricted and private access to telecommunications.	1	1%
6400.188(a)	The home shall provide services, including assistance, training and support for the acquisition, maintenance or improvement of functional skills, personal needs, communication and personal adjustment.	1	1%
	Total	68	

E. QUALITY ASSESSMENT AND IMPROVEMENT (QA&I) FINDINGS RELATED TO CMS HCBS RULES

In this section you will find the results of ODP’s annual QA&I oversight process, which includes monitoring for compliance with CMS’s federal regulations for Public Health ([Chapter IV, Subchapter C, Part 441](#)). Part 441 applies to “State plan requirements and limits on Federal Financial Participation (FFP) for specific services defined in part 441 of this subchapter,” specifically:

- § 441.301 Contents of Request for a Waiver
- § 441.530 Home and Community-Based Setting
- § 441.710 State Plan Requirements

QA&I results shown are from Cycle 2, Year 1 of QA&I (FY 22-23). In general, entities performed well for the majority of questions for which they were monitored through the QA&I process, however a few opportunities for improvement were noted. A common opportunity for improvement noted across all entities included that the entity has a policy to monitor EIM restraint and medication error reports in order to ensure proper procedures are followed and to detect abuse and neglect (AE - 56%, Providers 51%, and SCOs 74%). A common opportunity across Provider and SCO entities noted was that the Provider/SCO completes monthly individual incident data monitoring (Providers 52%, SCOs 61%).

Results also highlighted that Providers should focus improvement activities towards ensuring that if a restrictive intervention was used, the Provider followed the approved Behavior Support Component of the Individual Support Plan (ISP) for each instance to ensure that the individual is free from coercion and restraint. Additional Provider improvement activities should focus on developing and implementing policies and procedures regarding/related to facilitating and making accommodations to assist an individual to visit with whom the individual chooses; receiving, documenting, managing, and responding to complaints regarding the delivery of a service; and having a policy on sexual health, personal relationships, and sexuality consistent with the guidelines.

AE RESULTS

AE QA& I Questions (Q) & Findings Related to FR § 441.301, 441.530, 441.710	N	D	%
Q14. The AE has a policy to monitor EIM restraint and medication error reports in order to ensure proper procedures are followed and detect abuse and neglect.	9	16	56%
Q17. The AE operates a Human Rights Committee (HRC) in accordance with ODP requirements.	15	16	94%
Q21. The AE provides information and resources to individuals and families.	16	16	100%

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AE QA& I Questions (Q) & Findings Related to FR § 441.301, 441.530, 441.710 (continued)	N	D	%
Q27. The AE promotes competitive integrated employment as a priority.	16	16	100%
Q29. The AE has worked with community stakeholders to develop a local employment coalition if none exists or has enhanced its current coalition.	14	16	88%
Q42. The AE worked with the individual and their team to develop mitigation strategies when there are medical, behavioral, or socio-economic crisis situations.	20	22	91%
Q48. The AE ensures that the individual's ISP includes information about ongoing opportunities and supports necessary to participate in community activities of the individual's choice.	285	286	100%
Q60. The AE offers choice of Supports Coordination Organizations (SCOs) to the individual/family upon initial enrollment to TSM that includes documenting the offering of choice.	195	202	97%

SCO RESULTS

SCO QA& I Questions (Q) & Findings Related to FR § 441.301, 441.530, 441.710	N	D	%
Q11. The SCO has a policy to monitor EIM incidents reports, including but not limited to, restraint and medication error reports in order to ensure proper procedures are followed and detect abuse and neglect.	17	23	74%
Q12. The SCO completes monthly individual incident data monitoring.	14	23	61%
Q16. The SC documents the individual was provided with information about on-going opportunities and support necessary to participate in community activities of the individual's choice.	295	296	100%
Q23. The SC incorporated risk mitigation strategies into the ISP.	267	296	90%
Q31. Choice of providers was offered to the individual/family.	294	296	99%
Q32. Choice of services was offered to the individual/family.	293	296	99%
Q36. If the individual has limited English proficiency, the SCO has staff or contractor's language services who are trained to communicate with the individual.	11	11	100%
Q37. The ISP includes information about how the individual communicates and the communication supports and services the individual may need to assure effective communication.	295	296	100%
Q38. If there is documentation in the individual's record of interest in employment or a goal of employment, the ISP supports how this interest or goal will be pursued.	100	101	99%
Q39. **At the annual ISP meeting, the SC provided education and information to the individual about employment services (i.e., competitive, integrated employment, OVR services, benefits counseling or the "Guidance for Conversations about Employment").	294	296	99%

PROVIDER RESULTS

Provider QA& I Questions (Q) & Findings Related to FR § 441.301, 441.530, 441.710	N	D	%
Q4. The therapy provider renders the service in a home and community location.	8	8	100%
Q11. The Provider shall have a written policy regarding facilitating and making accommodations to assist an individual to visit with whom the individual chooses	206	254	81%
Q12. The Provider shall have written procedures to receive, document, manage, and respond to complaints regarding the delivery of a service	275	343	80%
Q16. The Provider has a policy on sexual health, personal relationships, and sexuality consistent with the guidelines.	293	343	85%
Q22. The Provider has a policy to monitor EIM restraint and medication error reports in order to ensure proper procedures are followed and detect abuse and neglect.	37	72	51%
Q23. The Provider completes monthly individual incident data monitoring.	17	33	52%
Q27. Staff are trained on the individual's communication profile and/or formal communication system.	116	135	86%
Q29. The individual has a current signed Department-approved room and board residency agreement on file.	302	315	96%
Q31. The individual is offered opportunities for, and provided support to, participate in integrated community activities consistent with the individual's preferences, choices, and interests.	987	1,052	94%
Q32. The Provider ensures the individual has the right to control his/her own schedule and activities and has the right to update those activities as desired.	899	967	93%
Q37. The Provider implements communication supports and services as specified in the individual's ISP to ensure effective communication.	184	201	92%
Q38. The Provider assists the individual in the identification of potential career options using a person-centered approach and based upon the interests and strengths of the individual.	70	71	99%
Q40. The individual was supported to make progress towards the outcome of competitive integrated employment.	111	126	88%
Q41. The individual is supported in exploring competitive integrated employment opportunities.	65	68	96%
Q44. The Provider supports the individual to maintain competitive integrated employment by facilitating transportation.	46	46	100%
Q49. If a restrictive intervention was used, the Provider followed the approved Behavior Support Component of the Individual Support Plan (ISP) for each instance to ensure that the individual is free from coercion and restraint.	16	19	84%