

Residency Agreements and the Final Rule

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Patrick Noonan
Ann Turner
Kitty Reed MacDonald
Mary Anna Sears
HCPF
The Lewin Group



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Our Mission

Improving health care access and outcomes for the **people** we serve while demonstrating sound stewardship of financial **resources**



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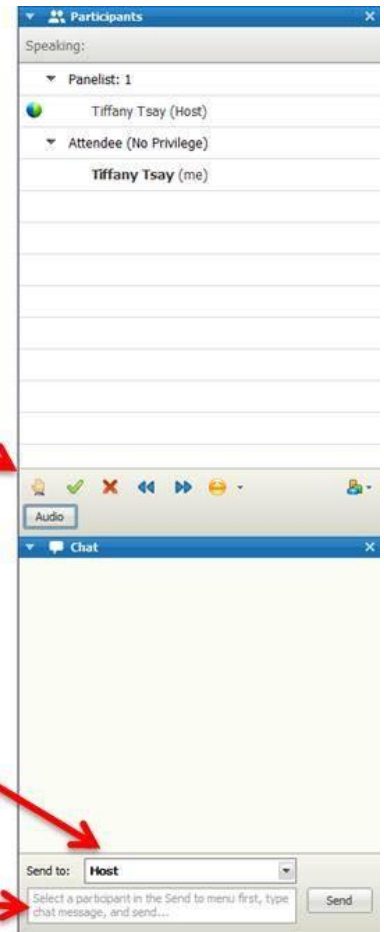
WebEx Quick Reference

- Use chat to answer questions, make comments, share insights
- For technology issues, please chat to “Host”
- For questions, comments or insights please chat to “All Participants”

Raise your hand

Select chat recipient

Enter Text



Today's Goals and Objectives

- Understand the Final Rule requirements around residency agreements
- Explore relevant federal and state laws and statutes
- Explore what providers are doing to assist residents in obtaining residency agreements.



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What do residential settings owned/controlled by providers need to have?

- Legally enforceable written agreement
- The same responsibilities/protections from eviction as all tenants under landlord tenant law of state, county, city or other designated entity
- Privacy in living/sleeping unit
- Physical Accessibility
- A person centered care plan for each resident where any and all restrictions/modifications are documented



Assurances that residents..

- Have freedom over their own schedules.
- May receive visitors at any time.
- May have access to food at any time.



Question to Consider

- What changes will your organization make in the next month to comply with the HCBS Final Rule requirements?
- What specific steps will you take in the next month to start the process of developing and/or refining your current residency agreements?



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Fair Housing

Renters

Homeowners

Seniors

People With Disabilities

Landlords

Lease Basics

Presented by:
Patrick Noonan
Housing Navigator
Colorado Housing Connects

**We are a non-profit helpline
designed to answer housing
questions**

We are NOT lawyers





Colorado is primarily a “CONTRACT” State

- Must still comply with Federal, State, County and Municipal laws
- Clauses contrary to these laws are oftentimes “unenforceable clauses”
- For information on additional laws, contact local Code Enforcement, Health Department, and Fire Department

*****See attachment # 1 for local resources**





Basic Tenant-Landlord Laws

Federal

Fair Housing Act

- Reasonable Accommodations and Modifications



State

Colorado Statutes

- Warranty of Habitability
- Eviction Process
- Security Deposits
- Domestic Violence
- Mobile Home Park Act



Other Precedents

- Covenant of Quiet Enjoyment & Renter Privacy



Fair Housing



Race
Color
National Origin
Religion
Sex
Disability
Familial Status

Ancestry
Creed or Belief System
Marital Status
Sexual Orientation



Fair Housing Act



EQUAL HOUSING
OPPORTUNITY

Reasonable Accommodations

Allows a tenant to request a policy exception

Ex. - Waiving a no pet policy to allow for an assistance animal

Reasonable Modifications

Allows a tenant to request alteration to physical property for accessibility

Ex. - Widening a door way to fit a wheelchair

Landlord may be able to deny a request under certain conditions (**see attachment #2, 3, &4 for more info)



Call a Housing Navigator for information and referrals



Denver Metro Fair Housing

Phone: 720-279-4291

Website: www.dmfhc.org



Housing and Urban Development (HUD)

Regional Complaint Line: (800) 877-7353

Online Form: hud.gov



Colorado Civil Rights Division

Phone: 303-894-2997

Website: www.colorado.gov/dora

Warranty of Habitability

CRS: § 38-12-503, § 38-12-505, § 38-12-507

“Compliance with all applicable building, housing, and health codes...

...which, if violated, would constitute a condition...

...that is dangerous or hazardous to a Tenant’s life, health, or safety”



Landlord responsibilities include (not limited to):

- Properly functioning plumbing, heating, and electrical facilities
- Rodent and vermin extermination
- Compliance with local building and health codes
- General maintenance of doors, locks, windows, etc.



*****See attachment #5 for more information**

Eviction Process

CRS § 13-40-112, § 13-40-115



- Legal process
- Differs from “Lease Termination” process
- Tenant & landlord can go before a judge
- Used in lease violation and non-payment of rent situations



Security Deposits

CRS §38-12-103

- Used for property damage, non-payment of rent, and non-payment of utilities/fees
- Landlord is responsible for “Normal Wear and Tear”
- Lease can provide landlord up to 60 days to return deposit
- If not stated in lease, deposit must be returned in 30 days
- Written statement listing reasons for retention of deposit
OR Refund of full deposit

***Legal definition of Normal Wear and Tear & “housing legal talk”
http://users.frii.com/cls/legalglossary_housing.htm (CO Legal Services)



Security Deposits (contd.)

- Statements/deposits must be sent to last known address
- Landlord is obligated to prove rightful retention of deposit
- Wrongful withholding of deposit can result in treble damages (up to 3x the amount of money owed)

Landlord Best Practices (Security Deposits)

Document, Document, Document!

- Before and after pictures & video
- Property condition inventory form (see attachment #6)
- Quotes for proposed work

Send statements and deposits through certified mail



Landlord Best Practices

Document, Document, Document!

- Requests and outcomes
- Notices in writing

Proactively Communicate

- Lease termination notices
- Expectations (backed up by lease terms)
- Find 'win-win' solutions



Mutual Rescission Clause

- Outlines conditions in which both parties can terminate the lease agreement for programmatic considerations

Covenant of Quiet Enjoyment

From the CO Bar Association:

"Colorado landlord-tenant law holds that the landlord promises ('covenants') that the tenant will have the quiet and peaceable possession and use of the premises, a condition called quiet enjoyment."

Best Practices

- Clearly define maintenance, noise, & entry policy in lease
- Give as much notice as possible before entry
Ex.- 24 hours written notice
- Give post-entry notice of services provided
- Minimize entry & respect privacy/belongings

***See Attachment #9 for more resources





Resources for Landlords

Call a Housing Navigator!

Non-profit helpline for housing questions

Website: coloradohousingconnects.org



Visit Colorado Legal Services

Legal resource with information about tenant-landlord rights

Website: www.coloradolegalservices.org/lawhelp/issues



Read the Colorado Revised Statutes

Official publisher of the Colorado Revised Statutes

Website: www.lexisnexis.com/hottopics/Colorado



Search the Colorado Judicial Branch

Information and self-help forms for landlords

Website: www.courts.state.co.us

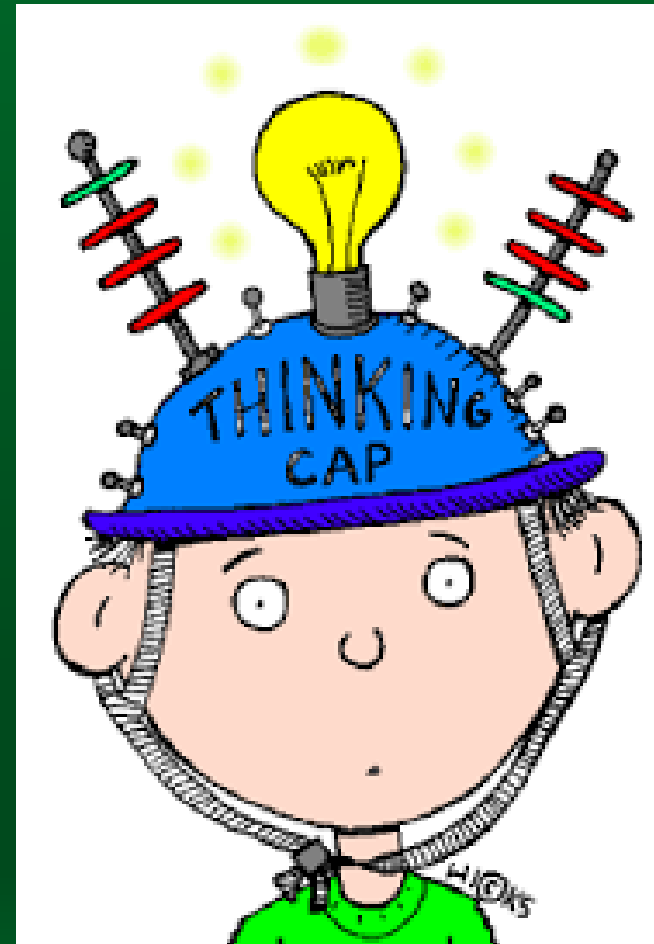


Reference the Landlord- Tenant Handbook

***See attachment #10 for general tenant-landlord information

Take a Minute to Reflect

- What revisions are necessary to your existing residency agreements based on the information shared?
- What steps will your organization take to develop residency agreements in line with federal and state requirements?





Promising Practices from the Field

Kitty Reed-MacDonald and Mary Anna Sears

Karen's House

Karen's House, ACF



Est. 2007

Part of residential continuum, including 2 RTFs
and 1 transitional apartment setting

Only ACF owned and managed by Jefferson Center

Residency Agreement + _____



Admission Process



Addendums



Safe, supportive, home-like environment

Challenges

Current...



- Finding balance between dual roles (landlord and clinical manager)
- Financial

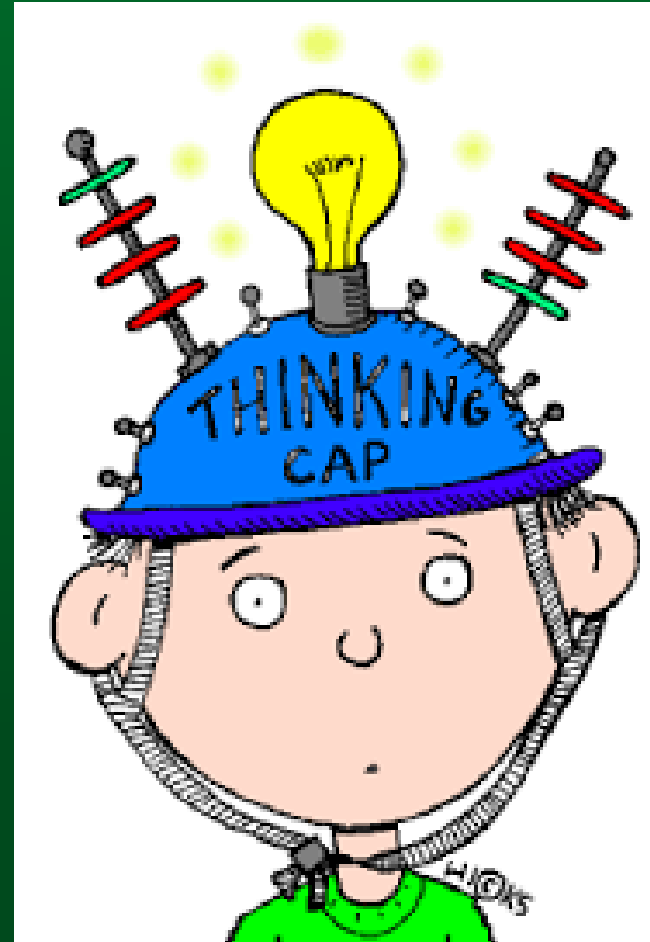
Anticipated...



- Logistics
- Culture shift
- Formalizing resident input
- Community relationships
- PATIENCE!

Take a Minute to Reflect

What specific steps will you take in the next month to start the process of developing and/or refining your current residency agreements?





CHEYENNE VILLAGE

SERVING ADULTS WITH DEVELOPMENTAL DISABILITIES

Promising Practices from the Field

Ann Turner, Executive Director
Cheyenne Village



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Cheyenne Village and Residency Agreements

- Established relationships with 7 apartment complexes & 3 private landlords to provide enforceable residency agreements with clients living on their own
 - Not a new process - have been doing this for over 30 years!
 - Individual holds the lease
 - Cheyenne Village maintains responsibility
 - Thorough assessment process to ensure safety
 - Provide 24/7 support, but not on site 24/7
 - Leverage HUD vouchers to help cover housing costs



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Establishing Relationships with New Landlords

Do your homework!

- Ensure the neighborhood is safe, close to public transportation routes, and is accessible
- Ensure the apartment complex is safe, accessible, and clean
- Complete a comprehensive Health and Safety Assessment to determine if individuals have basic community and home safety skills
 - For example: fire evacuation, calling 911, check door prior to opening to strangers, etc.
- Complete personal budgets for individuals



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Establishing Relationships with New Landlords

Develop a relationship with property management

- Assure management that the individual is able to support themselves
- Note that the provider will be around to help manage the house and respond to management, as appropriate
- Guarantee rent payment by the provider through individual's unearned income and HUD voucher
- It is imperative that during this process you build a rapport with the landlord based on trust of both the client and the provider



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Establishing Relationships with New Landlords

- Maintain relationship and open communication
- Introductions to neighbors
- Get to know the neighborhood and facilitate this with the individual



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This Works!

- Cheyenne Village discusses the apartment living option with new referrals.
- One young man was referred for a host home
 - During the referral process he and his family expressed an interest in him having his “own place”
 - With some extra support in the first 90 days he is now successful in his own apartment



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Challenges Obtaining Residency Agreements

- Availability of safe, affordable, and accessible housing, low apartment vacancy rates and increasing rent.
- HUD voucher waiting lists



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Mitigation Plans and Next Steps

- Reach out to Housing Authorities for voucher waiting lists
- Reach out to housing non profits for housing options
- Partner with families who may have capacity to arrange housing
- Analyze new HUD Program opportunities, i.e. Section 811 program

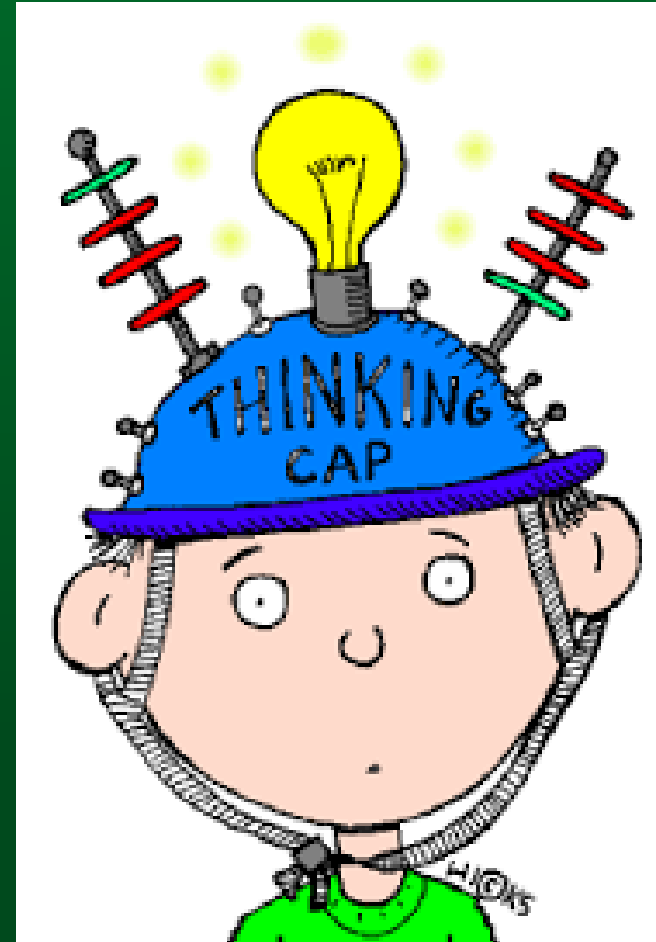


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Take a Minute to Reflect

What changes will your organization make in the next month to work towards obtaining residency agreements for all eligible individuals?



Where can I go for more information on the Final Rule?

- A [summary of the regulatory requirements](#) of fully compliant HCBS settings and those settings that are excluded.
- Additional technical guidance on regulatory language regarding [settings that isolate](#).
- Exploratory questions that may assist states in the assessment of:
 - [Residential Settings](#)
 - [Non-Residential Settings](#)
- [Questions and Answers Regarding Home and Community-Based Settings](#)
- [Medicaid Home and Community Based Services Website](#)



Contact Information

Lori Thompson

HCBS Specialist

303-866-5142

Lori.Thompson@state.co.us



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