

Systemic Assessment Crosswalk on Settings

In January 2014, the Centers for Medicare & Medicaid Services (CMS) published a rule to ensure that Home and Community Based Services (HCBS) are provided in settings that meet certain criteria. 79 Fed. Reg. 2948 (Jan. 16, 2014). The rule went into effect in March 2014, and states have five years—until March 2019—to ensure that their HCBS settings are compliant with the rule.

The Colorado Department of Health Care Policy & Financing (HCPF or “the Department”) has developed a Statewide Transition Plan (STP) for bringing Colorado’s HCBS settings into compliance with the HCBS Settings Rule. Under the STP, the Department has conducted a comprehensive review of the kinds of settings in which HCBS services are provided in Colorado and the state statutes, regulations, and waivers that govern the provision of HCBS services in these settings. The results of this systemic review are set forth below. Summaries and paraphrases of state legal authorities are for convenience only and are not intended to be complete or authoritative for any purpose outside of this crosswalk.

In addition to the Department, other state agencies, such as the Colorado Department of Public Health and Environment (CDPHE) and the Colorado Department of Human Services (CDHS), are involved in ensuring compliance with the HCBS Settings Rule. The Department plans to work with these agencies to ensure that their relevant statutes and regulations promote compliance. Although the Department has begun coordinating with CDPHE and CDHS on this endeavor, this crosswalk is issued only by the Department and is not a joint publication with CDPHE or CDHS.

The following notes are intended to make it easier to review and comment on the crosswalk:

1. Certain criteria in the HCBS Settings Rule apply to all HCBS settings. These criteria are set out below in red font above Table 1. Within Table 1, all affected HCBS settings are listed alphabetically from top to bottom. From left to right, the crosswalk summarizes existing state statutes, regulations, and waivers, stating whether they are consistent with, silent with respect to, or in conflict with each federal criterion.
2. Additional criteria in the HCBS Settings Rule apply only to provider-owned or -controlled residential HCBS settings. These criteria are set out below in orange font above Table 2. Within Table 2, all affected provider-owned or -controlled residential HCBS settings are listed alphabetically from top to bottom. From left to right, the crosswalk summarizes existing state statutes, regulations, and waivers, stating whether they are consistent with, silent with respect to, or in conflict with each federal criterion.
3. The Department is proposing to take a “belt and suspenders” approach to ensuring that all HCBS settings conform to the federal requirements.
 - a. Pursuant to this approach, the Department plans to propose two new regulations: 10 CCR 2505-10 AAA, requiring all HCBS settings to comply with set 1 of the federal criteria (see red text above Table 1), and 10 CCR 2505-10 BBB, requiring all provider-owned or -operated residential HCBS settings to comply with set 2 of the federal criteria (see orange text above Table 2). “AAA” and “BBB” are placeholders for numbers to be assigned later.
 - b. In addition, the Department plans to propose piecemeal edits to its regulations governing particular HCBS settings, and to work with other agencies that are involved with such settings, as set out in the two tables below. These edits are described below as “redlines.” The Department hopes that these redlines will be relatively uniform across different kinds of settings, but it invites comment on whether different language or considerations should apply to particular settings.
4. For the sake of efficiency and uniformity, the Department expects the bulk of the redlines to affect its own regulations and those of other agencies. The Department plans to seek changes to statutes and waivers only where necessary to mitigate possible conflicts with federal requirements, and not to address mere silence in a statute or waiver vis-à-vis federal requirements (which will be addressed via regulatory amendments). Working with CMS, the Department may eventually seek to amend its waivers so that similar requirements are addressed with similar language, and so that services that are provided under multiple waivers are described in a consistent way.
5. Where a statute, regulation, or waiver is silent with respect to two or more federal requirements, the silence is noted in the first column in the table; subsequent columns in the table that direct the reader to “see Column X” (prior column) mean that the authority is also silent with respect to the additional federal requirements.
6. Where the crosswalk indicates that the Department plans to propose redlines or work with another agency to do so, the public will have an opportunity down the road to review and comment on the actual proposed redlines (e.g., during a rulemaking proceeding or the notice-and-comment period for waiver amendments). Therefore, while you may comment on all aspects of this crosswalk, you may find it most efficient to focus now on big-picture issues, and to save particular wording preferences for the comment periods to come.
7. To review the authorities identified in this crosswalk, please visit:
 - a. For state statutes: <http://leg.colorado.gov/colorado-revised-statutes>.
 - b. For regulations: <https://www.sos.state.co.us/CCR/Welcome.do>.
 - c. For waivers: https://www.medicaid.gov/medicaid/section-1115-demo/demonstration-and-waiver-list/waivers_faceted.html.

Set 1 of federal criteria: standards applicable to all HCBS settings (42 C.F.R. § 441.301(c)(4))

Home and community-based settings must have all of the following qualities, and such other qualities as [CMS] determines to be appropriate, based on the needs of the individual as indicated in their person-centered service plan:

- (i) The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and 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 individuals not receiving Medicaid HCBS.
- (ii) The setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board.
- (iii) Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.
- (iv) Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.
- (v) Facilitates individual choice regarding services and supports, and who provides them.

New Rule AAA will provide that the above standards apply to all settings in which HCB services are provided, except where HCB services are otherwise permitted to be delivered in a setting that is institutional or does not meet the HCBS settings standards, such as respite services available under certain waivers. See 79 Fed. Reg. at 3011. Palliative/Supportive Care services provided outside the child's home (under the Children with Life-Limiting Illness waiver) are similar to respite, and new Rule AAA will not apply to such services. In addition to protecting the federally prescribed rights as set forth above, new Rule AAA will also

- protect some of the rights currently set forth in 10 CCR 2505-10 8.515.80(C) (rights of participants in the Waiver for People with Brain Injury);
- require that if restraints are used with an individual, the use be based on an assessed need after all less restrictive interventions have been exhausted; be documented in the individual's person-centered plan as a modification of the generally applicable settings criteria, consistent with the standards in Rule BBB; be compliant with any applicable waiver; and be reassessed over time;
- provide that any restrictive or controlled egress measures must be consistent with the following criteria:
 - o the measures are implemented on an individualized (not setting-wide) basis;
 - o the measures make accommodations for individuals who are not at risk of wandering or exit-seeking behaviors;
 - o the measures are documented in the individual's person-centered plan as a modification of the generally applicable settings criteria, consistent with the standards in Rule BBB;
 - o the plan documents an assessment of the individual's wandering or exit-seeking behaviors (and the underlying conditions, diseases, or disorders relating to such behaviors) and the need for safety measures; options that were explored before any modifications occurred to the person-centered plan; the individual's understanding of the setting's safety features, including any controlled-egress; the individual's choices for prevention of unsafe wandering or exit-seeking; the individual's and their caregivers'/representatives' consent to controlled-egress goals for care; the individual's preferences for engagement within the setting's community and within the broader community; and the opportunities, services, supports, and environmental design that will enable the individual to participate in desired activities and support their mobility; and
 - o the measures are not developed or used for non-person-centered purposes, such as punishment or staff convenience;
- provide that if an individual requests that a provider hold his/her funds, their signed person-centered plan must document this request, the reasons for the request, and the parties' agreement on how the provider should handle the funds (including acknowledgement of the provider's obligations under C.R.S. 25.5-10-227 and the Social Security Administration's (SSA's) requirements for representative payees, if applicable or if the parties so elect) and what they define as "reasonable amounts" under C.R.S. 25.5-10-227 (if applicable or if the parties so elect).

Table 1: standards applicable to all HCBS settings

Type of setting	A.Integrated	B.Selected by individual	C.Ensures individual's rights	D.Optimizes autonomy in life choices	E.Facilitates choice regarding services and supports
<p>1. Adult day services centers (alternatives to nursing facilities)— includes basic and specialized adult day services centers</p> <p><i>The Department has convened a stakeholder workgroup comprised of providers, clients, advocates, and representatives from CDPHE.</i></p>	<p>Statute: C.R.S. 25.5-6-303(1) generally requires that all federal requirements be met, but does not specifically list integration, etc. C.R.S. 25.5-6-313(1.5) requires the MSB to regulate restricted environments and restrictive egress alert devices at adult day care centers.</p>	<p>Statute: See Column A.</p> <p>Regs: See Column A; as stated at left, the Department plans to add a reference to new Rule AAA within the two adult day services regulations.</p>	<p>Statute: C.R.S. 26-20-103 limits the use of restraints by state agencies as well as public or private entities that contract with or are licensed/certified by state agencies. Otherwise, see Column A.</p>	<p>Statute: See Column A.</p> <p>Regs: 10 CCR 2505-10 8.491.14(F) provides that clients have the right to choose not to participate in social and recreational activities. 8.515.70 is silent on autonomy. As stated at left, the Department plans to</p>	<p>Statute: See Column A.</p> <p>Regs: See Column A; as stated at left, the Department plans to add a reference to new Rule AAA within the two adult day services regulations.</p> <p>Waiver: See Column A.</p>

Type of setting	A. Integrated	B. Selected by individual	C. Ensures individual's rights	D. Optimizes autonomy in life choices	E. Facilitates choice regarding services and supports
<p><i>The workgroup is reviewing current Department regulations for compliance with the HCBS Settings Rule and to make any other necessary updates.</i></p> <p>Summary of cited authorities: C.R.S. 25.5-6-301 <i>et seq.</i> provides statutory authority for HCBS services for people who are elderly, blind, or physically disabled (EBD). Section 303 sets out definitions, including one for adult day care facilities. Section 313 requires the Medical Services Board (MSB) to adopt certain rules for the administration of the EBD waiver, including adult day care services. C.R.S. 26-20-101 <i>et seq.</i> is the Protection of Individuals from Restraint and Seclusion Act.</p> <p>CDPHE's general licensure standards are set forth in 6 CCR 1011-1 Chapter 02, and its regulations protecting people from involuntary restraints in licensed health care facilities are set forth in Chapter 02 Part 8. 10 CCR 2505-10 8.491 regulates adult day services for purposes of the EBD Waiver, the Waiver for Persons with Spinal Cord Injury (SCI) (see 8.517.1), and the Waiver for Community Mental Health Services (CMHS) for Persons with Major Mental Illnesses (see 8.509.13). Section 8.515 <i>et seq.</i> regulates services under the Waiver for Persons with Brain Injury (BI), with Section 8.515.70 defining adult day services for purposes of that waiver.</p> <p>The cited waivers provide for adult day services.</p>	<p>Regs: 10 CCR 2505-10 8.491 and 8.515.70 do not specifically require integration, etc. The Department plans to require integration by adding a reference to new Rule AAA within these two regs. For this particular setting and federal requirement (integration), the Department also plans to propose redlines that specify concrete, desired outcomes. The Department will implement C.R.S. 25.5-6-313(1.5) by adding the reference to Rule AAA—which will specify that any restrictive egress measures must meet the criteria set out above—and any additional appropriate language to the adult day services regulations.</p> <p>Waiver: BI Waiver, EBD Waiver, SCI Waiver, and CMHS Waiver are silent with respect to integration, etc.</p>	<p>Waiver: BI Waiver, EBD Waiver, SCI Waiver, and CMHS Waiver at App. B-7 and App. D-1, items b & c confirm that people are informed of feasible service alternatives provided by the waiver and the choices of either institutional or home and community-based services, and that the case manager provides a choice of providers.</p>	<p>Regs: 6 CCR 1011-1 Chapter 02 Part 8 limits the use of restraints in all licensed health care facilities.</p> <p>10 CCR 2505-10 8.491.20(B)(11) requires a restraint-free environment. To preserve this requirement, the Department will propose to modify this rule to require a restraint-free environment “notwithstanding” anything in Rule AAA that might otherwise appear to allow a restraint.</p> <p>8.515.70 is silent on this issue; see Column A; as stated at left, the Department plans to add a reference to new Rule AAA.</p> <p>Waiver: BI Waiver, EBD Waiver, SCI Waiver, and CMHS Waiver at App. G-2 describe statutory and regulatory protections for certain rights, including freedom from restraint.</p>	<p>add a reference to new Rule AAA within the two adult day services regulations.</p> <p>Waiver: See Column A.</p>	
<p>2. Alternative care facilities (ACFs)</p> <p><i>The Department has convened a stakeholder workgroup comprised of providers, clients, advocates, and representatives from CDPHE. The workgroup is reviewing current Department regulations for compliance with the HCBS Settings Rule and to make any other necessary updates. The Department is working closely with CDPHE to ensure that any revisions to the HCPF regulations not only address the HCBS Settings Rule, but do not conflict with the assisted living residence (ALR) regulations with which ACFs must comply. At the same time, CDPHE is currently working with stakeholders, including representatives from the Department, to update its ALR regulations.</i></p> <p>Summary of cited authorities: The Department's regulations require an ACF to be licensed by CDPHE as an assisted living residence (ALR) and to meet other criteria, as set forth in 10 CCR 2505-10 8.495.</p> <p>C.R.S. 25-27-101 <i>et seq.</i> provides statutory authority for CDPHE to regulate ALRs, including by implementing the minimum standards in Section 104. C.R.S. 25.5-6-301 <i>et seq.</i> provides</p>	<p>Statute: C.R.S. 25-27-104 is silent with respect to integration, etc. C.R.S. 25.5-6-303(3) generally requires that all federal requirements be met, but does not specifically list integration, etc.</p> <p>Regs: For ALRs generally: 6 CCR 1011-1 Chap 07 1.104(5)(m) requires ALR to have a policy on restrictive egress alert devices, and 1.108 regulates secured environments. 1.106(1)(l) protects resident's right to make visits outside the facility. 1.107(2) requires ALR to provide opportunities for social and recreational activities within and outside the facility.</p> <p>For ACFs specifically: under 10 CCR 2505-10 8.495.1, protective oversight includes resident choice and ability to travel and engage independently in the wider community. 8.495.2.B requires an assessment of whether the ACF meets the person's need for independence and community integration. 8.495.6.F requires ACF to encourage and assist client's participation in activities within the wider community, when appropriate. The Department plans to add a reference to</p>	<p>Statute: See Column A.</p> <p>Regs: Client chooses to live in an ACF, per 10 CCR 2505-10 8.495.2.B and 8.495.4.A(1). Otherwise silent; as stated at left, the Department plans to add a reference to new Rule AAA within 10 CCR 2505-10 8.495.</p> <p>Waiver: EBD Waiver and CMHS Waiver at App. B-7 and App. D-1, items b & c confirm that people are informed of feasible service alternatives provided by the waiver and the choices of either institutional or home and community-based services, and that the case manager provides a choice of providers.</p>	<p>Statute: C.R.S. 25-27-104(e) requires promulgation of regs to protect individual rights but does not specify which rights. C.R.S. 26-20-103 limits the use of restraints by state agencies as well as public or private entities that contract with or are licensed/certified by state agencies.</p> <p>Regs: No redlines needed beyond adding a reference to new Rule AAA within 10 CCR 2505-10 8.495. Under 6 CCR 1011-1 Chap 07 1.104(5)(g), ALRs must have written policies on resident rights that incorporate the provisions of Section 1.106(1), which address privacy, dignity, respect, and freedom from restraint; <i>see also</i> 6 CCR 1011-1 Chapter 02 Part 8 and Chap 07 1.106(3) (limiting use of restraints); 10 CCR 2505-10 8.495.6.E. (protecting privacy during phone calls and visits and in bedroom). Also, 6 CCR 1011-1 Chap 07 1.102(3)(b)(iv), 1.104(5)(j), 1.105(3), and 1.106(1)(m) protect residents' control of their money and property. And under 10 CCR 2505-10 8.495.4.B, clients shall be informed of their rights.</p>	<p>Statute: See Column A.</p> <p>Regs: No redlines needed beyond adding a reference to new Rule AAA within 10 CCR 2505-10 8.495. Under 10 CCR 2505-10 8.495.4.A, ACF must foster client independence, promote individuality and lifestyle, and avoid reducing personal choice and initiative.</p> <p>Waiver: EBD Waiver at App. G-2, item a requires ACF to be homelike and provide choice about care and lifestyle. CMHS Waiver at App. G-2, item a-ii, requires ACF to “comply with the home-like and person centered environment requirements.”</p>	<p>Statute: See Column A.</p> <p>Regs: No redlines needed beyond adding a reference to new Rule AAA within 10 CCR 2505-10 8.495. Under 10 CCR 2505-10 8.495.4.A, ACF must promote choice of care.</p> <p>Waiver: See Column D.</p>

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<p>statutory authority for HCBS services for people who are elderly, blind, or physically disabled (EBD). Section 303 sets out definitions, including one for ACFs. C.R.S. 26-20-101 <i>et seq.</i> is the Protection of Individuals from Restraint and Seclusion Act.</p> <p>CDPHE's general licensure standards are set forth in 6 CCR 1011-1 Chapter 02, and its regulations protecting people from involuntary restraints in licensed health care facilities are set forth in Chapter 02 Part 8. CDPHE's regulations for ALRs are set forth in 6 CCR 1011-1 Chap 07.</p> <p>The cited waivers provide for ACF services.</p>	<p>new Rule AAA within 10 CCR 2505-10 8.495. As stated above, Rule AAA will require integration and will specify that any restrictive egress measures must meet the criteria set forth above.</p> <p>Waiver: EBD Waiver, App. G-2, item a requires ACF to facilitate community integration. CMHS Waiver at App. G-2, item a-ii, states that a survey tool administered by CDPHE ensures that ACFs "comply with the home-like and person centered environment requirements and support community integration." CMHS Waiver at App. G-2, item c, states that ACF "must facilitate community integration; protect the health, welfare and safety of the client; and be home-like and person-centered." The Department plans to delete references to ACFs in the BI Waiver (with ACFs being replaced by 10.Supported Living Program (SLP) and Transitional Living Program (TLP) facilities).</p>		<p>Waiver: EBD Waiver and CMHS Waiver at App. G-2 describe statutory and regulatory protections for certain rights, including freedom from restraint.</p>		
<p>3. Child Residential Habilitation settings</p> <ul style="list-style-type: none"> Foster Care Homes (no more than 3 foster care children) Kinship Foster Care Non-certified Kinship Care Specialized Group Facilities (SGFs) <ul style="list-style-type: none"> Group Homes (up to 6 children if three are in CHRP program) Group Centers (up to 7 children if two are in CHRP program or 9 children if one is in CHRP program) Residential Child Care Facilities (RCCFs) <p><i>The rules relating to this type of setting are currently being revised.</i></p> <p><i>The Department plans to work with CDHS on regulatory and/or waiver edits that will have minimal impact on the numerous foster care homes, SGFs, and RCCFs that serve children who are not enrolled in the Children's Habilitation Residential Program (CHRP) Waiver.</i></p> <p>Summary of cited authorities: C.R.S. 25.5-10-201 <i>et seq.</i> sets forth statutory standards and procedures for providing services to individuals with IDD. C.R.S. 26-6-101 <i>et seq.</i> is the Child Care Licensing Act. C.R.S. 26-20-101 <i>et seq.</i> is the Protection of Individuals from Restraint and Seclusion Act.</p>	<p>Statute: C.R.S. 25.5-10-201 declares the General Assembly's intent that individuals with IDD be included in community life, but does not specify integration as a requirement for particular settings. C.R.S. 25.5-10-227 provides that "[u]pon the request of a person receiving services, a service agency may hold [in trust] money or funds belonging to the person receiving services," and that "[u]pon request, a person receiving services is entitled to receive reasonable amounts of such person's money or funds held in trust" by the agency. In conjunction with the part of new Rule AAA relating to agreements on the provider's handling of funds, this statutory provision is consistent with the HCBS Settings Final Rule.</p> <p>Regs: The Department plans add a reference to new Rule AAA in the Department's CHRP-specific regulations (10 CCR 2505-10 8.508).</p> <p>10 CCR 2505-10 8.608 and the service plan require providers serving people with IDD to promote community inclusion.</p> <p>Under 12 CCR 2509-8 7.701.200, children in foster care are entitled to participate in appropriate cultural and social activities. Facilities providing residential care must use a "reasonable and prudent parent standard" in deciding whether to allow participation. <i>Id.</i> 7.708.38 and -.39 specify educational and community participation rights for children in foster</p>	<p>Statute: Statutes do not address whether the child chooses the residential habilitation setting.</p> <p>Regs: No redlines needed beyond adding references to new Rule AAA in the Department's CHRP-specific regulations (10 CCR 2505-10 8.508).</p> <p>12 CCR 2509-8 7.708.61 (for children in foster care), 7.714.2 (for children in SGFs and RCCFs), and the service plan require placement agreement to be developed with the involvement of the child and parent(s) or guardian(s).</p> <p>Waiver: CHRP Waiver, App. B-7, provides that "[w]hen an individual is determined to be likely to require a level of care as indicated in the waiver, the individual or his/her legal representative will be: a. informed of any feasible alternatives under the waiver; and b. given the choice of either institutional or home and community-based services." In some circumstances, the legal guardian or custodian making this choice may be the county.</p>	<p>Statute: C.R.S. 25.5-10-216 through -240 protect the rights of individuals with IDD in general (-218), and in particular with respect to privacy (-223) and freedom from coercion and restraint (-221). Dignity and respect are protected through C.R.S. 25.5-10-201 and -216 through -240 as a whole.</p> <p>C.R.S. 26-6-106(2)(g) authorizes child care facility licensing rules to "safeguard the legal rights of children served," but does not specify which rights. C.R.S. 26-6-106(2)(k) authorizes rules to set standards for short-term confinement of children.</p> <p>C.R.S. 26-20-103 limits the use of restraints by state agencies as well as public or private entities that contract with or are licensed/certified by state agencies.</p> <p>Regs: As stated at left, the Department plans add a reference to new Rule AAA, which will explicitly protect an individual's rights of privacy, dignity, respect, and freedom from coercion and restraint, to the Department's CHRP-specific regulations (10 CCR 2505-10 8.508). In addition, the Department plans to propose redlines to 10 CCR 2505-10 8.508.180 to more explicitly ensure children's rights of privacy, dignity and respect, and freedom from coercion and restraint, and to ensure that any use of restraints is based on an assessed need after all less restrictive interventions have been exhausted; be documented in the child's person-centered plan as a modification of the generally applicable</p>	<p>Statute: See Column B.</p> <p>Regs: No redlines needed beyond adding references to new Rule AAA in the Department's CHRP-specific regulations (10 CCR 2505-10 8.508).</p> <p>10 CCR 2505-10 8.608 requires providers serving people with IDD to work to help these clients make increasingly sophisticated and responsible choices, exert greater control over their life, and develop and exercise their competencies and talents.</p> <p>12 CCR 2509-8 7.708.61 (for children in foster care) and 7.714.2 (for children in SGFs and RCCFs) require care to be provided in the least restrictive, most appropriate setting in order to meet the child's needs.</p> <p>Waiver: CHRP waiver is silent with respect to autonomy.</p>	<p>Statute: See Column B.</p> <p>Regs: No redlines needed beyond adding references to new Rule AAA in the Department's CHRP-specific regulations (10 CCR 2505-10 8.508).</p> <p>Waiver: See Column D.</p>

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<p>The Department's regulations for CHRP services are set forth in 10 CCR 2505-10 8.508, and its general regulations for the provision of services to individuals with IDD are set forth in 10 CCR 2505-10 8.600 <i>et seq.</i> CDHS's regulations for child welfare services and facilities are set forth in 12 CCR 2509 <i>et seq.</i>, also known as Staff Manual Volume 7. Within Volume 7, Part 5 (Section 7.401 <i>et seq.</i>) addresses reimbursement and provider requirements, and Part 8 (Section 7.700 <i>et seq.</i>) addresses child care facility licensing. Several of CDHS's regulations require counties and child welfare providers serving children enrolled in the CHRP waiver to follow the Department's CHRP-specific regulations. See 12 CCR 2509-5 7.406.2(O) as well as 2509-8 7.708.1(A)(3) for foster care, 7.701.2 for SGFs, and 7.705.21(C) for RCCFs.</p> <p>The cited waiver provides for CHRP services.</p>	<p>care; work must be approved by foster parent(s) and the county designee.</p> <p>12 CCR 2509-8 7.708.33, 7.708.67, and 7.708.68 (for foster care) and 7.714.31 and 7.714.7 (for SGFs and RCCFs) protect children's right to keep and use their possessions, subject to certain limits, and be allowed to spend a "reasonable sum" of their own money.</p> <p>12 CCR 2509-8 7.714.2, 7.714.6, & 7.714.7, applicable to SGFs and RCCFs, require facilities to have policies on participation in recreational & religious activities & community life; to provide for educational & vocational programs in the most appropriate & least restrictive setting; & to encourage participation in community activities. 7.709.25 provides for children in SGFs to participate in school & community activities.</p> <p>Waiver: CHRP waiver does not expressly address integration, although it states in App. C-2 that "[a] group home is located within a community and provides an environment that is similar to a foster or familial home. The children [like those in a foster home] [have] access to activities in the community."</p>		<p>settings criteria, consistent with the standards in Rule BBB; be compliant with the CHRP waiver; and be reassessed over time. The Department will also propose to update this regulation's reference to "Children's Rights as defined in CDHS Social Services Staff Manual" from the outdated "Section 7.714.50, 'CHILDREN'S RIGHTS' (12 CCR 2509-8)" to the current relevant provisions.</p> <p>10 CCR 2505-10 8.604.1 (relating to people with IDD) reiterates that people receiving services have the same rights as others; 8.604.2 requires providers to protect rights in C.R.S. 25.5-10-218 through -231 (the Department plans to change this to C.R.S. 25.5-10-216 through -240); and 8.608.3 thru 8.608.5 limit the use of restraints. The Department plans to propose redlines to some or all of these regulations to more explicitly state that individuals have rights of privacy, dignity, respect, and freedom from coercion and restraint, and to require that any use of restraints be based on an assessed need after all less restrictive interventions have been exhausted; be documented in the child's person-centered plan as a modification of the generally applicable settings criteria, consistent with the standards in Rule BBB; be compliant with the CHRP; and be reassessed over time.</p> <p>In 10 CCR 2505-10 8.500.15, 8.500.105, and 8.503.150, the Department plans to update references from the outdated C.R.S. 27-10.5-101 <i>et seq.</i> or 112 <i>et seq.</i> to the current C.R.S. 25.5-10-216 through -240.</p> <p>12 CCR 2509-8 7.708.33 thru -.37 (for foster care) and 7.714.31 thru 7.714.4 & 7.714.52 (for SGFs and RCCFs) explicitly protect privacy, implicitly protect dignity and respect, and limit coercion & restraint.</p> <p>12 CCR 2509-8 7.714.53 <i>et seq.</i> sets out conditions under which restraints are allowed in foster care, SGFs, and RCCFs.</p> <p>Waiver: CHRP waiver, App. C-2, refers to CDHS's rules for group homes, including rights protections as described above. CHRP waiver Appendix G-2 describes safeguards concerning restraints and restrictive intentions.</p>		
<p>4. Day Habilitation/treatment locations for individuals with IDD—includes 3 subcategories, below</p>	<p>Statute: C.R.S. 25.5-10-206(1)(D) and 27-10.5-104(1)(c) require day services and supports to support community integration. Also, C.R.S. 25.5-6-409.3 requires redesigned adult IDD waiver to support</p>	<p>Statute: C.R.S. 25.5-6-409.3 requires redesigned adult IDD waiver to incorporate freedom of choice over living arrangements and social, community, and recreational opportunities; individual authority over</p>	<p>Statute: C.R.S. 25.5-6-409.3 is silent with respect to individual rights. However, C.R.S. 25.5-10-216 through -240 protect the rights of individuals with IDD in general (-218), and in particular with respect to</p>	<p>Statute: C.R.S. 25.5-6-409.3 requires redesigned adult IDD waiver to incorporate freedom of choice over living arrangements and social, community, and recreational opportunities; individual authority over</p>	<p>Statute: C.R.S. 25.5-6-409.3 requires redesigned adult IDD waiver to provide support to organize resources and achieve</p>

Type of setting	A. Integrated	B. Selected by individual	C. Ensures individual's rights	D. Optimizes autonomy in life choices	E. Facilitates choice regarding services and supports
<p>Summary of cited authorities: C.R.S. 13-21-101 <i>et seq.</i> sets forth provisions on damages in court proceedings. C.R.S. 25.5-6-401 <i>et seq.</i> is the Home- and Community-based Services for Persons with Developmental Disabilities Act. C.R.S. 25.5-10-201 <i>et seq.</i> sets forth statutory standards and procedures for providing services to individuals with IDD. C.R.S. 26-20-101 <i>et seq.</i> is the Protection of Individuals from Restraint and Seclusion Act. C.R.S. 27-10.5-104 authorizes services and support for people with IDD.</p> <p>CDPHE's general licensure standards are set forth in 6 CCR 1011-1 Chapter 02, and its regulations protecting people from involuntary restraints in licensed health care facilities are set forth in Chapter 02 Part 8. The Department's regulations for the Waiver for Persons with Developmental Disabilities (DD) are set forth at 10 CCR 2505-10 8.500 <i>et seq.</i> (see 8.500.5.a(2), defining Day Habilitation services for purposes of the DD waiver), and its regulations for the Supported Living Services (SLS) Waiver are set forth at 10 CCR 2505-10 8.500.90 <i>et seq.</i> (see 8.500.94.A(3), defining Day Hab for purposes of SLS waiver). The Department's general regulations for the provision of services to individuals with IDD are set forth in 10 CCR 2505-10 8.600 <i>et seq.</i> (see 8.609.9, defining Day Hab in general).</p> <p>The cited waivers provide for day habilitation services for individuals with IDD.</p>	<p>employment and community integration. (N/A to children.) See also C.R.S. 25.5-10-201 & -202(21) (General Assembly's intent that individuals with IDD be included in community life). In addition, C.R.S. 13-21-117.5 encourages community integration by limiting the liability of CCBs & providers serving individuals with IDD.</p> <p>C.R.S. 25.5-10-227 provides that "[u]pon the request of a person receiving services, a service agency may hold [in trust] money or funds belonging to the person receiving services," and that "[u]pon request, a person receiving services is entitled to receive reasonable amounts of such person's money or funds held in trust" by the agency. In conjunction with the part of new Rule AAA relating to agreements on the provider's handling of funds, this statutory provision is consistent with the HCBS Settings Final Rule.</p> <p>Regs: 10 CCR 2505-10 8.608 requires providers serving people with IDD to promote community inclusion. 8.500.5.A(2), 8.500.94.A(3), and 8.609.9(A)(1) require day habilitation services to be provided outside the home unless otherwise indicated by documented need. The Department plans to change the foregoing regs, as well as 8.609.4 and 8.609.9(A)(3), which provide for non-integrated, sheltered, and/or segregated settings for activities. The Department plans to propose redlines to eliminate non-integrated settings and require integration. In addition, the Department plans to add a reference to new Rule AAA to one or more of the foregoing regs.</p> <p>Waiver: SLS Waiver, App. C, provides that day habilitation "takes place in a non-residential setting, separate from the participant's private residence or other residential living arrangement, except when due to medical and/or safety needs." See also DD Waiver, App. C (similar).</p>	<p>supports and services; and maximum personal control. (N/A to children.)</p> <p>Regs: Day habilitation regs are silent with respect to selection by individual. No redlines needed beyond adding references to new Rule AAA to the Department's regs for day habilitation.</p> <p>Waiver: SLS Waiver, App. D-1, items c, d, and f, confirm that the CCB must provide information to participants about the potential services, supports, and resources that are available, and that the participant or his/her guardian are offered free choice from among qualified providers. See also DD Waiver, App. D-1, items c, d, and f (same).</p>	<p>privacy (-223) and freedom from coercion and restraint (-221). Dignity and respect are protected through C.R.S. 25.5-10-201 and -216 through -240 as a whole. In addition, C.R.S. 26-20-103 limits the use of restraints by state agencies as well as public or private entities that contract with or are licensed/certified by state agencies.</p> <p>Regs: As stated at left, the Department plans add a reference to new Rule AAA, which will explicitly protect an individual's rights of privacy, dignity, respect, and freedom from coercion and restraint, to the Department's regs for day habilitation.</p> <p>10 CCR 2505-10 8.604.1 (relating to people with IDD) reiterates that people receiving services have the same rights as others; 8.604.2 requires providers to protect rights in C.R.S. 25.5-10-218 through -231 (the Department plans to change this to C.R.S. 25.5-10-216 through -240); and 8.608.3 thru 8.608.5 limit the use of restraints. The Department plans to propose redlines to some or all of these regulations to more explicitly state that individuals have rights of privacy, dignity, respect, and freedom from coercion and restraint, and to require that any use of restraints be based on an assessed need after all less restrictive interventions have been exhausted; be documented in the individual's person-centered plan as a modification of the generally applicable settings criteria, consistent with the standards in Rule BBB; be compliant with any applicable waiver; and be reassessed over time.</p> <p>10 CCR 2505-10 8.609.5(B)(6) presumes that people can manage their own funds and possessions unless their plan documents limitations and a plan to increase this skill.</p> <p>In 10 CCR 2505-10 8.500.15, 8.500.105, and 8.503.150, the Department plans to update references from the outdated C.R.S. 27-10.5-101 <i>et seq.</i> or 112 <i>et seq.</i> to the current C.R.S. 25.5-10-216 through -240.</p> <p>6 CCR 1011-1 Chapter 02 Part 8 limits the use of restraints in all licensed health care facilities.</p> <p>Waiver: SLS Waiver, App. G-2, describes statutory protections for certain rights, including freedom from restraint. See also DD Waiver, App. G-2 (same).</p>	<p>supports and services; and maximum personal control. (N/A to children.)</p> <p>Regs: No redlines needed beyond adding a reference to new Rule AAA to the Department's regs for day habilitation. 10 CCR 2505-10 8.500.5.A(2) and 8.500.94.A(3) require day habilitation environments to foster independence and personal choice. Also, 10 CCR 2505-10 8.608 requires providers serving people with IDD to work to help these clients make increasingly sophisticated and responsible choices, exert greater control over their life, and develop and exercise their competencies and talents.</p> <p>Waiver: SLS Waiver, App. C, provides that day habilitation "[a]ctivities and environments are designed to foster the acquisition of skills, appropriate behavior, greater independence, and personal choice." See also DD Waiver, App. C (same).</p>	<p>"key service outcomes." (N/A to children.)</p> <p>Regs: See Column B; no redlines needed beyond adding a reference to new Rule AAA to the Department's regs for day habilitation</p> <p>Waiver: SLS Waiver and DD Waiver are silent with respect to obligation on provider's part to facilitate choice regarding services and supports.</p>

Type of setting	A. Integrated	B. Selected by individual	C. Ensures individual's rights	D. Optimizes autonomy in life choices	E. Facilitates choice regarding services and supports
<ul style="list-style-type: none"> (a) Specialized Habilitation centers <p>Summary of cited authorities: See Row 4, above.</p>	<p>See Row 4, above, with the following additional points:</p> <p>Regs: As stated above, the Department plans to add a reference to new Rule AAA to its day habilitation regulations. Also, under 10 CCR 2505-10 8.500.5.A(2) and 8.500.94.A(3), specialized habilitation is provided in a non-integrated setting where a majority of the clients have a disability; the Department plans to change this to eliminate non-integrated settings and require integration.</p> <p>Waiver: SLS Waiver, App. C, provides that specialized habilitation is "generally provided in non-integrated settings where a majority of the persons have a disability, such as program sites." The Department plans to change this to eliminate non-integrated settings and require integration. See <i>also</i> DD Waiver, App. C (same).</p>				
<ul style="list-style-type: none"> (b) Supported Community Connections (SCC) (adults)/Community Connector (children) locations <p>Summary of cited authorities: See Row 4, above. In addition, the Department's regulations for the Children's Extensive Support (CES) Waiver are set forth in 10 CCR 2505-10 8.503 (see 8.503.40.a(4), defining Community Connector Services), and its regulations for the Children's Habilitation Residential Program (CHRP) Waiver are set forth in 10 CCR 2505-10 8.508 (see 8.508.100(h), defining Community Connections Service for purposes of CHRP Waiver).</p>	<p>See Row 4, above, with the following additional points:</p> <p>Regs: As stated above, the Department plans to add references to new Rule AAA to its day habilitation regulations and to its CHRP-specific regulations (10 CCR 2505-10 8.508); in addition, the Department plans to add a reference to new Rule AAA to its CES-specific regulations (10 CCR 2505-10 8.503). Under 10 CCR 2505-10 8.500.5.A(2) and 8.500.94.A(3), SCC services help the client access typical activities and functions of community life, such as those chosen by the general population, including community education or training, retirement, and volunteer activities. The services are conducted in a variety of settings in which the client interacts with persons without disabilities. Under 10 CCR 2505-10 8.508.100(H), community connections services under the CHRP Waiver "may explore community services available to the individual, and develop methods to access additional services/supports/activities desired by the individual. Community connection services can provide the individual with the resources to participate in the activities and functions of the community desired and chosen by the individual receiving the services. Typically, these will be the same type of activities available and desired by the general population." The CES Waiver regulations at 8.503.40.A(4) define Community Connector services similarly.</p> <p>Waiver: SLS Waiver, App. C, provides that SCC "supports the abilities and skills necessary to enable the participant to access typical activities and functions of community life such as those chosen by the general population, including community education or training, retirement and volunteer activities. [SCC] provides a wide variety of opportunities to facilitate and build relationships and natural supports in the community, while utilizing the community as a learning environment to provide services and supports as identified in a participant's Service Plan. These activities are conducted in a variety of settings in which participants interact with non-disabled individuals (other than those individuals who are providing services to the participant). These types of services may include socialization, adaptive skills and personnel to accompany and support the participant in community settings, resources necessary for participation in activities and supplies related to skill acquisition, retention or improvement." See <i>also</i> DD Waiver, App. C (similar); CHRP waiver, App. C (similar); CES waiver, App. C (similar).</p>				
<ul style="list-style-type: none"> (c) Prevocational Services centers <p>Summary of cited authorities: See Row 4, above.</p>	<p>See Row 4, above, with the following additional points:</p> <p>Statute: Under C.R.S. 25.5-10-204(g)(l), as recently amended by the Employment First Act (S.B. 16-077), the Department will "[f]acilitate employment first policies and practices by . . . [d]eveloping practices that reflect a presumption that all persons with disabilities are capable of working in competitive integrated employment if they choose to do so, and ensuring that options for competitive integrated employment with appropriate supports are explored before consideration of segregated activities."</p> <p>Regs: Under 10 CCR 2505-10 8.500.5.A(2) and 8.500.94.A(3), prevocational services are provided in a variety of non-residential locations.</p> <p>Waiver: Under SLS Waiver, App. C., prevocational services "are provided in a variety of locations separate from the participant's private residence or other residential living arrangement." See <i>also</i> DD Waiver, App. C (same).</p>				
<p>5. Day treatment facilities under BI waiver</p> <p><i>The Department has convened a stakeholder workgroup to ensure that the rules relating to this type of setting comply with the HCBS Settings Rule.</i></p> <p>Summary of cited authorities: C.R.S. 25.5-6-701 <i>et seq.</i> provides statutory authority for HCBS services for people with brain injuries (BI). Section 703 sets out definitions, including one for structured day treatment. C.R.S. 26-20-101 <i>et seq.</i> is the Protection of Individuals from Restraint and Seclusion Act.</p> <p>CDPHE's general licensure standards are set forth in 6 CCR 1011-1 Chapter 02, and its regulations protecting people from involuntary restraints in licensed health care facilities are set forth in Chapter 02 Part 8. 10 CCR 2505-10 8.515 <i>et seq.</i> regulates services under the Waiver for Persons with Brain Injury (BI), with Section 8.515.80 defining day treatment services for purposes of that waiver.</p> <p>The cited waiver provides for day treatment services.</p>	<p>Statute: C.R.S. 25.5-6-703(7) is silent with respect to integration, etc.</p> <p>Regs: 10 CCR 2505-10 8.515.80 is silent with respect to integration, etc. The Department plans to add a reference to new Rule AAA within this regulation.</p> <p>Waiver: BI waiver is silent with respect to integration, etc.</p>	<p>Statute: See Column A.</p> <p>Regs: See Column A; no redlines needed beyond adding a reference to new Rule AAA within the day treatment regulation.</p> <p>Waiver: BI Waiver at App. B-7 and App. D-1, items b & c confirms that people are informed of feasible service alternatives provided by the waiver and the choices of either institutional or home and community-based services, and that the case manager provides a choice of providers.</p>	<p>Statute: C.R.S. 26-20-103 limits the use of restraints by state agencies as well as public or private entities that contract with or are licensed/certified by state agencies. Otherwise, see Column A.</p> <p>Regs: No redlines needed beyond adding a reference to new Rule AAA within the day treatment regulation. 10 CCR 2505-10 8.515.80(C) enumerates individual rights, including privacy and freedom from restraint; dignity and respect are protected though not explicitly listed. As stated above and below, new Rules AAA and BBB will incorporate some or all of the rights in 8.515.80(C); to avoid duplication, the Department will eliminate from 8.515.80(C) any rights that are made generally applicable through Rules AAA or BBB. In addition, 6 CCR 1011-1 Chapter 02 Part 8 limits the use of restraints in all licensed health care facilities.</p> <p>Waiver: BI Waiver at App. G-2 describes statutory and regulatory protections for certain rights, including freedom from restraint.</p>	<p>Statute: See Column A.</p> <p>Regs: See Column A; no redlines needed beyond adding a reference to new Rule AAA within the day treatment regulation.</p> <p>Waiver: See Column A.</p>	<p>Statute: See Column A.</p> <p>Regs: See Column A; no redlines needed beyond adding a reference to new Rule AAA within the day treatment regulation.</p> <p>Waiver: See Column A.</p>

Type of setting	A. Integrated	B. Selected by individual	C. Ensures individual's rights	D. Optimizes autonomy in life choices	E. Facilitates choice regarding services and supports
<p>6. Group Residential Services and Supports (GRSS) community residential homes for four to eight people</p> <p>Summary of cited authorities: C.R.S. 13-21-101 <i>et seq.</i> sets forth provisions on damages in court proceedings. C.R.S. 25.5-6-401 <i>et seq.</i> is the Home- and Community-based Services for Persons with Developmental Disabilities Act. C.R.S. 25.5-10-201 <i>et seq.</i> sets forth statutory standards and procedures for providing services to individuals with IDD. C.R.S. 26-20-101 <i>et seq.</i> is the Protection of Individuals from Restraint and Seclusion Act. C.R.S. 27-10.5-104 authorizes services and support for people with IDD.</p> <p>CDPHE's general licensure standards are set forth in 6 CCR 1011-1 Chapter 02, and its regulations protecting people from involuntary restraints in licensed health care facilities are set forth in Chapter 02 Part 8. CDPHE's regulations for facilities for individuals with IDD, including group homes, are set forth in 6 CCR 1011-1 Chapter 08. The Department's regulations for the Waiver for Persons with Developmental Disabilities (DD) are set forth at 10 CCR 2505-10 8.500 <i>et seq.</i> (see 8.500.1 on GRSS and 8.500.5.A(5) on Residential Habilitation Services and Supports (RHSS)). The Department's general regulations for the provision of services to individuals with IDD are set forth in 10 CCR 2505-10 8.600 <i>et seq.</i> (see 8.609.5 on comprehensive services and 8.609.8 on GRSS).</p> <p>The cited waiver provides for GRSS services for individuals with IDD.</p>	<p>Statute: C.R.S. 25.5-6-409.3 requires redesigned adult IDD waiver to support employment and community integration. (N/A to children.) See also C.R.S. 25.5-10-201 & -202(21) (General Assembly's intent that individuals with IDD be included in community life). Also, C.R.S. 25.5-10-214(5)(a) requires regulation of the distance between such homes. In addition, C.R.S. 13-21-117.5 encourages community integration by limiting the liability of CCBs & providers serving individuals with IDD.</p> <p>C.R.S. 25.5-10-227 provides that "[u]pon the request of a person receiving services, a service agency may hold [in trust] money or funds belonging to the person receiving services," and that "[u]pon request, a person receiving services is entitled to receive reasonable amounts of such person's money or funds held in trust" by the agency. In conjunction with the part of new Rule AAA relating to agreements on the provider's handling of funds, this statutory provision is consistent with the HCBS Settings Final Rule.</p> <p>Regs: 10 CCR 2505-10 8.608 requires providers serving people with IDD to promote community inclusion. 8.609.8(B) also prevents conspicuous grouping of GRSS homes near other DIDD settings. The Department plans to add a reference to new Rule AAA to one or more of its regulations regarding GRSS settings (10 CCR 2505-10 8.500.1, 8.500.5.A(5), 8.609.5, and 8.609.8). The Department also plans to update 8.600.4 (definition of Regional Center), which should say that CDHS, not HCPF, operates Regional Centers.</p> <p>6 CCR 1011-1 Chap 08 Section 10 requires policy on resident funds but does not explicitly provide for resident control of personal resources.</p> <p>Waiver: DD Waiver, App. C-2, item c-ii, cites rule above regarding community inclusion. Also, under App. C, residential habilitation services, which include GRSS, "are designed to assist participants to reside as independently as possible in the community" and include community access services to "explore community services available to all people, natural supports available to the participant, and develop methods to access additional services/supports/activities needed by the participant."</p>	<p>Statute: C.R.S. 25.5-6-409.3 requires redesigned adult IDD waiver to incorporate freedom of choice over living arrangements and social, community, and recreational opportunities, and individual authority over supports and services. (N/A to children.) Under C.R.S. 25.5-10-216(7) and 27-10.5-110(2), a person shall not be admitted to a Regional Center without a court order.</p> <p>Regs: No redlines needed beyond adding reference(s) to new Rule AAA within the Department's GRSS regulations.</p> <p>Waiver: DD Waiver, App. D-1, items c, d, and f, confirm that the CCB must provide information to participants about the potential services, supports, and resources that are available, and that the participant or his/her guardian are offered free choice from among qualified providers.</p>	<p>Statute: C.R.S. 25.5-6-409.3 is silent with respect to individual rights. However, C.R.S. 25.5-10-216 through -240 protect the rights of individuals with IDD in general (-218), and in particular with respect to privacy (-223) and freedom from coercion and restraint (-221). Dignity and respect are protected through C.R.S. C.R.S. 25.5-10-201 and -216 through -240 as a whole.</p> <p>C.R.S. 26-20-103 limits the use of restraints by state agencies as well as public or private entities that contract with or are licensed/certified by state agencies.</p> <p>Regs: As stated at left, the Department plans to add reference(s) to new Rule AAA within the Department's GRSS regulations.</p> <p>10 CCR 2505-10 8.604.1 (relating to people with IDD) reiterates that people receiving services have the same rights as others; 8.604.2 requires providers to protect rights in C.R.S. 25.5-10-218 through -231 (the Department plans to change this to C.R.S. 25.5-10-216 through -240); and 8.608.3 thru 8.608.5 limit the use of restraints. The Department plans to propose redlines to some or all of these regulations to more explicitly state that individuals have rights of privacy, dignity, respect, and freedom from coercion and restraint, and to require that any use of restraints be based on an assessed need after all less restrictive interventions have been exhausted; be documented in the individual's person-centered plan as a modification of the generally applicable settings criteria, consistent with the standards in Rule BBB; be compliant with any applicable waiver; and be reassessed over time.</p> <p>In 10 CCR 2505-10 8.500.15, 8.500.105, and 8.503.150, the Department plans to update references from the outdated C.R.S. 27-10.5-101 <i>et seq.</i> or 112 <i>et seq.</i> to the current C.R.S. 25.5-10-216 through -240.</p> <p>10 CCR 2505-10 8.609.5(B)(6) presumes that people can manage their own funds and possessions unless their plan documents limitations and a plan to increase this skill.</p> <p>6 CCR 1011-1 Chap 08 Section 9 protects resident rights set forth 6 CCR 1011-1, Chapter II, Part 6 (includes dignity, privacy, & freedom from inappropriate restraint), and C.R.S. 25.5-10-218 through 225 (the Department plans to change this to C.R.S. 25.5-10-216 through -240). Also, 6 CCR 1011-1 Chapter 02 Part 8 limits the</p>	<p>Statute: C.R.S. 25.5-6-409.3 requires redesigned adult IDD waiver to incorporate freedom of choice over living arrangements and social, community, and recreational opportunities; individual authority over supports and services; and maximum personal control. (N/A to children.)</p> <p>Regs: No redlines needed beyond adding reference(s) to new Rule AAA within the Department's GRSS regulations. Under 10 CCR 2505-10 8.500.5.A(5), residential habilitation services assist clients to reside as independently as possible in the community, including through self-advocacy training and community access services. Also, 10 CCR 2505-10 8.608 requires providers serving people with IDD to work to help these clients make increasingly sophisticated and responsible choices, exert greater control over their life, and develop and exercise their competencies and talents.</p> <p>Waiver: Under DD Waiver, App. C, residential habilitation services, which include GRSS, "are designed to assist participants to reside as independently as possible in the community" and include self-advocacy training (which may include training "to make increasingly responsible choices") and cognitive services (which may include training in "planning and decision making").</p>	<p>Statute: C.R.S. 25.5-6-409.3 requires redesigned adult IDD waiver to provide support to organize resources and achieve "key service outcomes." (N/A to children.)</p> <p>Regs: Regs for GRSS community residential homes are silent with respect to facilitating choice regarding services and supports. The regs for case planning cover this, but the Department plans to add this point to the regs for this setting as well by adding reference(s) to new Rule AAA within the Department's GRSS regulations.</p> <p>Waiver: DD Waiver is silent with respect to obligation on provider's part to facilitate choice regarding services and supports.</p>

Type of setting	A. Integrated	B. Selected by individual	C. Ensures individual's rights	D. Optimizes autonomy in life choices	E. Facilitates choice regarding services and supports
			<p>use of restraints in all licensed health care facilities.</p> <p>Waiver: DD Waiver, App. G-2, describes statutory protections for certain rights, including freedom from restraint.</p>		
<p>7. Individual Residential Services and Supports (IRSS) homes for up to 3 people</p> <ul style="list-style-type: none"> • Host homes • Homes owned or leased by agency • Family homes (see Row 8) • Own homes (see Row 8) <p>Summary of cited authorities: C.R.S. 13-21-101 <i>et seq.</i> sets forth provisions on damages in court proceedings. C.R.S. 25.5-6-401 <i>et seq.</i> is the Home- and Community-based Services for Persons with Developmental Disabilities Act. C.R.S. 25.5-10-201 <i>et seq.</i> sets forth statutory standards and procedures for providing services to individuals with IDD. C.R.S. 26-20-101 <i>et seq.</i> is the Protection of Individuals from Restraint and Seclusion Act.</p> <p>The Department's regulations for the Waiver for Persons with Developmental Disabilities (DD) are set forth at 10 CCR 2505-10 8.500 <i>et seq.</i> (see 8.500.1 on IRSS and 8.500.5.A(5) on Residential Habilitation Services and Supports (RHSS)). The Department's general regulations for the provision of services to individuals with IDD are set forth in 10 CCR 2505-10 8.600 <i>et seq.</i> (see 8.609.5 on comprehensive services and 8.609.7 on IRSS).</p> <p>The cited waiver provides for IRSS services for individuals with IDD.</p>	<p>Statute: C.R.S. 25.5-6-409.3 requires redesigned adult IDD waiver to support employment and community integration. (N/A to children.) See also C.R.S. 25.5-10-201 & -202(21) (General Assembly's intent that individuals with IDD be included in community life). In addition, C.R.S. 13-21-117.5 encourages community integration by limiting the liability of CCBs & providers serving individuals with IDD.</p> <p>C.R.S. 25.5-10-227 provides that "[u]pon the request of a person receiving services, a service agency may hold [in trust] money or funds belonging to the person receiving services," and that "[u]pon request, a person receiving services is entitled to receive reasonable amounts of such person's money or funds held in trust" by the agency. In conjunction with the part of new Rule AAA relating to agreements on the provider's handling of funds, this statutory provision is consistent with the HCBS Settings Final Rule.</p> <p>Regs: The Department plans to add a reference to new Rule AAA to one or more of its regulations regarding IRSS settings (10 CCR 2505-10 8.500.1, 8.500.5.A(5), 8.609.5, and 8.609.7). 10 CCR 2505-10 8.608 requires providers serving people with IDD to promote community inclusion; 8.609.7(B) requires the same for IRSS providers. Also, 8.609.7(A)(3) makes community inclusion and distance from other settings (to avoid conspicuous grouping) considerations in selecting a setting.</p> <p>Waiver: DD Waiver, App. C-2, item c-ii, cites rule above regarding community inclusion. Also, under DD Waiver, App. C, residential habilitation services, which include IRSS, "are designed to assist participants to reside as independently as possible in the community" and include community access services to "explore community services available to all people, natural supports available to the participant, and develop methods to access additional services/supports/activities needed by the participant."</p>	<p>Statute: C.R.S. 25.5-6-409.3 requires redesigned adult IDD waiver to incorporate freedom of choice over living arrangements and social, community, and recreational opportunities, and individual authority over supports and services. (N/A to children.)</p> <p>Regs: No redlines needed beyond adding reference(s) to new Rule AAA within the Department's IRSS regulations.</p> <p>Waiver: DD Waiver, App. D-1, items c, d, and f, confirm that the CCB must provide information to participants about the potential services, supports, and resources that are available, and that the participant or his/her guardian are offered free choice from among qualified providers.</p>	<p>Statute: C.R.S. 25.5-6-409.3 is silent with respect to individual rights. However, C.R.S. 25.5-10-216 through -240 protect the rights of individuals with IDD in general (-218), and in particular with respect to privacy (-223) and freedom from coercion and restraint (-221). Dignity and respect are protected through C.R.S. 25.5-10-201 and -216 through -240 as a whole.</p> <p>C.R.S. 26-20-103 limits the use of restraints by state agencies as well as public or private entities that contract with or are licensed/certified by state agencies.</p> <p>Regs: As stated at left, the Department plans to add reference(s) to new Rule AAA within the Department's IRSS regulations.</p> <p>10 CCR 2505-10 8.604.1 (relating to people with IDD) reiterates that people receiving services have the same rights as others; 8.604.2 requires providers to protect rights in C.R.S. 25.5-10-218 through -231 (the Department plans to change this to C.R.S. 25.5-10-216 through -240); and 8.608.3 thru 8.608.5 limit the use of restraints. The Department plans to propose redlines to some or all of these regulations to more explicitly state that individuals have rights of privacy, dignity, respect, and freedom from coercion and restraint, and to require that any use of restraints be based on an assessed need after all less restrictive interventions have been exhausted; be documented in the individual's person-centered plan as a modification of the generally applicable settings criteria, consistent with the standards in Rule BBB; be compliant with any applicable waiver; and be reassessed over time.</p> <p>In 10 CCR 2505-10 8.500.15, 8.500.105, and 8.503.150, the Department plans to update references from the outdated C.R.S. 27-10.5-101 <i>et seq.</i> or 112 <i>et seq.</i> to the current C.R.S. 25.5-10-216 through -240.</p> <p>10 CCR 2505-10 8.609.5(B)(6) presumes that people can manage their own funds and possessions unless their plan documents limitations and a plan to increase this skill.</p>	<p>Statute: C.R.S. 25.5-6-409.3 requires redesigned adult IDD waiver to incorporate freedom of choice over living arrangements and social, community, and recreational opportunities; individual authority over supports and services; and maximum personal control. (N/A to children.)</p> <p>Regs: No redlines needed beyond adding reference(s) to new Rule AAA within the Department's IRSS regulations. Under 10 CCR 2505-10 8.500.5.A(5), residential habilitation services assist clients to reside as independently as possible in the community, including through self-advocacy training and community access services. Also, 10 CCR 2505-10 8.608 requires providers serving people with IDD to work to help these clients make increasingly sophisticated and responsible choices, exert greater control over their life, and develop and exercise their competencies and talents.</p> <p>Waiver: Under DD Waiver, App. C, residential habilitation services, which include IRSS, "are designed to assist participants to reside as independently as possible in the community" and include self-advocacy training (which may include training "to make increasingly responsible choices") and cognitive services (which may include training in "planning and decision making").</p>	<p>Statute: C.R.S. 25.5-6-409.3 requires redesigned adult IDD waiver to provide support to organize resources and achieve "key service outcomes." (N/A to children.)</p> <p>Regs: IRSS regs are silent with respect to facilitating choice regarding services and supports. The regs for case planning cover this, but the Department plans to add this point to the regs for this setting as well by adding reference(s) to new Rule AAA within the Department's IRSS regulations.</p> <p>Waiver: See Column B.</p>

Type of setting	A. Integrated	B. Selected by individual	C. Ensures individual's rights	D. Optimizes autonomy in life choices	E. Facilitates choice regarding services and supports
			<p>Waiver: DD Waiver, App. G-2, describes statutory protections for certain rights, including freedom from restraint.</p>		
<p>8. Private homes belonging to clients or their families, professional provider offices, and clinics</p>	<p>Colorado's statutes, regulations, and waivers do not expressly require that private homes, professional provider offices, and clinics be integrated, selected by the individual, etc. Colorado understands CMS's position to be that if HCBS services are provided in a private home, professional provider office, or clinic, the setting must meet the HCBS settings requirements set forth in 42 C.F.R. § 441.301(c)(4). Colorado plans to promulgate new Rule AAA making these requirements applicable to all settings in which HCBS services are provided.</p> <p>For purposes of site-specific assessments (e.g., Provider Transition Plans and site visits), Colorado plans to draw on its understanding of the way most private homes, professional provider offices, and clinics operate in presuming that they are compliant with these requirements. Anyone may seek to rebut this presumption by providing information about a particular setting to the Department. For situations where a family caregiver is a provider and owns the home in which he or she provides services to a family member, Colorado plans to test its presumption by conducting site visits at a random selection of family-caregiver-owned homes; assuming the presumption holds, Provider Transition Plans will not be required for all family-caregiver-owned homes.</p>				
<p>9. Supported Employment/vocational services locations</p> <ul style="list-style-type: none"> • Group • Individual <p>Summary of cited authorities: C.R.S. 13-21-101 <i>et seq.</i> sets forth provisions on damages in court proceedings. C.R.S. 25.5-6-401 <i>et seq.</i> is the Home- and Community-based Services for Persons with Developmental Disabilities Act. C.R.S. 25.5-10-201 <i>et seq.</i> sets forth statutory standards and procedures for providing services to individuals with IDD. C.R.S. 26-20-101 <i>et seq.</i> is the Protection of Individuals from Restraint and Seclusion Act.</p> <p>The Department's regulations for the Waiver for Persons with Developmental Disabilities (DD) are set forth at 10 CCR 2505-10 8.500 <i>et seq.</i> (see 8.500.5.A(7) on Supported Employment for purposes of DD Waiver), and its regulations for the Supported Living Services (SLS) Waiver are set forth at 10 CCR 2505-10 8.500.90 <i>et seq.</i> (see 8.500.94.A(14) on Supported Employment for purposes of SLS Waiver). The Department's general regulations for the provision of services to individuals with IDD are set forth in 10 CCR 2505-10 8.600 <i>et seq.</i> (see 8.609.9(A) on Supported Employment).</p> <p>The cited waivers provide for Supported Employment services for individuals with IDD.</p>	<p>Statute: C.R.S. 25.5-6-409.3 requires redesigned adult IDD waiver to support employment and community integration. (N/A to children.) See also C.R.S. 25.5-10-201 & -202(21) (General Assembly's intent that individuals with IDD be included in community life). In addition, C.R.S. 13-21-117.5 encourages community integration by limiting the liability of CCBs & providers serving individuals with IDD.</p> <p>Under C.R.S. 25.5-10-204(g)(I), as recently amended by the Employment First Act (S.B. 16-077), the Department will "[f]acilitate employment first policies and practices by . . . [d]eveloping practices that reflect a presumption that all persons with disabilities are capable of working in competitive integrated employment if they choose to do so, and ensuring that options for competitive integrated employment with appropriate supports are explored before consideration of segregated activities."</p> <p>C.R.S. 25.5-10-227 provides that "[u]pon the request of a person receiving services, a service agency may hold [in trust] money or funds belonging to the person receiving services," and that "[u]pon request, a person receiving services is entitled to receive reasonable amounts of such person's money or funds held in trust" by the agency. In conjunction with the part of new Rule AAA relating to agreements on the provider's handling of funds, this statutory provision is consistent with the HCBS Settings Final Rule.</p> <p>Regs: 10 CCR 2505-10 8.608 requires providers serving people with IDD to promote community inclusion. Under 10 CCR 2505-10 8.500.5.A(7) and 8.500.94.A(14), supported employment may be delivered in a variety of settings in which clients interact with individuals without disabilities to the same extent that individuals without disabilities employed in comparable positions would interact;</p>	<p>Statute: C.R.S. 25.5-6-409.3 requires redesigned adult IDD waiver to incorporate freedom of choice over living arrangements and social, community, and recreational opportunities, and individual authority over supports and services. (N/A to children.)</p> <p>Regs: Regs are silent with respect to supported employment setting being selected by individual; no redlines needed beyond adding reference(s) to new Rule AAA within the Department's Supported Employment regulations.</p> <p>Waiver: SLS Waiver, App. D-1, items c, d, and f, confirm that the CCB must provide information to participants about the potential services, supports, and resources that are available, and that the participant or his/her guardian are offered free choice from among qualified providers. See also DD Waiver, App. D-1, items c, d, and f (same).</p>	<p>Statute: C.R.S. 25.5-6-409.3 is silent with respect to individual rights. However, C.R.S. 25.5-10-216 through -240 protect the rights of individuals with IDD in general (-218), and in particular with respect to privacy (-223) and freedom from coercion and restraint (-221). Dignity and respect are protected through C.R.S. 25.5-10-201 and -216 through -240 as a whole. Also, C.R.S. 26-20-103 limits the use of restraints by state agencies as well as public or private entities that contract with or are licensed/certified by state agencies.</p> <p>Regs: As stated at left, the Department plans to add reference(s) to new Rule AAA within the Department's Supported Employment regulations.</p> <p>10 CCR 2505-10 8.604.1 (relating to people with IDD) reiterates that people receiving services have the same rights as others; 8.604.2 requires providers to protect rights in C.R.S. 25.5-10-218 through -231 (the Department plans to change this to C.R.S. 25.5-10-216 through -240); and 8.608.3 thru 8.608.5 limit the use of restraints. The Department plans to propose redlines to some or all of these regulations to more explicitly state that individuals have rights of privacy, dignity, respect, and freedom from coercion and restraint, and to require that any use of restraints be based on an assessed need after all less restrictive interventions have been exhausted; be documented in the individual's person-centered plan as a modification of the generally applicable settings criteria, consistent with the standards in Rule BBB; be compliant with any applicable waiver; and be reassessed over time.</p> <p>In 10 CCR 2505-10 8.500.15, 8.500.105, and 8.503.150, the Department plans to update references from the outdated C.R.S. 27-10.5-101 <i>et seq.</i> or 112 <i>et seq.</i> to the current C.R.S. 25.5-10-216 through -240.</p>	<p>Statute: C.R.S. 25.5-6-409.3 requires redesigned adult IDD waiver to incorporate freedom of choice over living arrangements and social, community, and recreational opportunities; individual authority over supports and services; and maximum personal control. (N/A to children)</p> <p>Regs: No redlines needed beyond adding reference(s) to new Rule AAA within the Department's Supported Employment regulations. 10 CCR 2505-10 8.608 requires providers serving people with IDD to work to help these clients make increasingly sophisticated and responsible choices, exert greater control over their life, and develop and exercise their competencies and talents.</p> <p>Waiver: SLS Waiver, App. C, and DD Waiver, App. C, are silent with respect to autonomy in connection with supported employment.</p>	<p>Statute: C.R.S. 25.5-6-409.3 requires redesigned adult IDD waiver to provide support to organize resources and achieve "key service outcomes." (N/A to children.)</p> <p>Regs: See Column B; no redlines needed beyond adding reference(s) to new Rule AAA within the Department's Supported Employment regulations.</p> <p>Waiver: See Column B.</p>

Type of setting	A. Integrated	B. Selected by individual	C. Ensures individual's rights	D. Optimizes autonomy in life choices	E. Facilitates choice regarding services and supports
	<p>occurs outside of a provider facility; and is provided in community jobs, enclaves, or mobile crews. The Department plans to change 8.609.4 and 8.609.9(A), which provide for non-integrated, sheltered, and/or segregated work services, to eliminate non-integrated settings and require integration. The Department also plans to eliminate "enclaves" from 8.500.5.A(7) and 8.500.94.A(14). In addition, the Department plans to add a reference to new Rule AAA to one or more of the foregoing regs.</p> <p>Waiver: SLS Waiver, App. C, describes supported employment as established in the above-cited regulations. The Department plans to eliminate "enclaves" from the waiver. See also DD Waiver, App. C (same).</p>		<p>10 CCR 2505-10 8.609.5(B)(6) presumes that people can manage their own funds and possessions unless their plan documents limitations and a plan to increase this skill.</p> <p>Waiver: SLS Waiver, App. G-2, describes statutory protections for certain rights, including freedom from restraint. See also DD Waiver, App. G-2 (same).</p>		
<p>For purposes of site-specific assessments (e.g., Provider Transition Plans and site visits), Colorado plans to draw on its understanding of the way most Supported Employment – Individual settings operate in presuming that they are compliant with these requirements. Anyone may seek to rebut this presumption by providing information about a particular setting to the Department. Supported Employment – Group settings will be subject to the same PTP and site visit process as other settings.</p>					
<p>10. Supported Living Program (SLP) facilities under BI waiver (note that SLP providers must be licensed as an ALR (see Row 2 above))</p> <p><i>The rules relating to this type of setting are currently being revised.</i></p> <p>Summary of cited authorities: C.R.S. 25.5-6-701 <i>et seq.</i> provides statutory authority for HCBS services for people with brain injuries (BI). Section 703 sets out definitions, including one for supportive care campuses. C.R.S. 26-20-101 <i>et seq.</i> is the Protection of Individuals from Restraint and Seclusion Act.</p> <p>CDPHE's general licensure standards are set forth in 6 CCR 1011-1 Chapter 02, and its regulations protecting people from involuntary restraints in licensed health care facilities are set forth in Chapter 02 Part 8. 10 CCR 2505-10 8.515 <i>et seq.</i> regulates services under the Waiver for Persons with Brain Injury (BI), with Section 8.515.85 setting out criteria for the SLP.</p> <p>The cited waiver provides for SLP services.</p>	<p>Statute: C.R.S. 25.5-6-703(9) is silent with respect to integration, etc. of supportive care campus.</p> <p>Regs: The Department plans to add a reference to new Rule AAA within 10 CCR 2505-10 8.515.85. Under 10 CCR 2505-10 8.515.85.F, the SLP must be integrated in and support full access to the greater community. Under 8.515.85.H, it must have certain policies on management of client funds and property. Also, under 8.515.85.A, protective oversight includes the client's choice and ability to travel and engage independently in the wider community; and under 8.515.85.C, SLP services include community participation.</p> <p>The SLP regs currently include a paraphrased restatement of the federal settings criteria (at 8.515.85.F(1)), F(2), and H(1)) and the process for modifying these criteria in particular cases (at F(3)). When it promulgates Rules AAA and BBB, the Department will eliminate this restatement in order to avoid duplication and potential inconsistency.</p> <p>Waiver: BI Waiver at App. C-2, item c(ii) requires SLP facility to facilitate community integration.</p>	<p>Statute: See Column A.</p> <p>Regs: No redlines needed beyond adding a reference to new Rule AAA to the SLP reg. Under 10 CCR 2505-10 8.515.85.F, SLP must be selected by the client from among setting options.</p> <p>Waiver: BI Waiver at App. B-7 and App. D-1, items b & c confirms that people are informed of feasible service alternatives provided by the waiver and the choices of either institutional or home and community-based services, and that the case manager provides a choice of providers.</p>	<p>Statute: C.R.S. 26-20-103 limits the use of restraints by state agencies as well as public or private entities that contract with or are licensed/certified by state agencies. Otherwise, see Column A.</p> <p>Regs: As stated at left, the Department plans to add a reference to new Rule AAA to the SLP reg. Under 10 CCR 2505-10 8.515.85.F, SLP must ensure client rights of privacy, dignity, respect, and freedom from coercion and restraint. The Department plans to propose redlines to 8.515.85.F(3)(c) to clarify that SLP providers may not use restraints or seclusion (as stated in the waiver).</p> <p>Also, 6 CCR 1011-1 Chapter 02 Part 8 limits the use of restraints in all licensed health care facilities.</p> <p>Waiver: Per BI waiver App. G-2, SLP is prohibited from the use of restraints and seclusion.</p>	<p>Statute: See Column A.</p> <p>Regs: No redlines needed beyond adding a reference to new Rule AAA to the SLP reg. Under 10 CCR 2505-10 8.515.85.F, SLP must optimize individual initiative, autonomy, and independence; also, under 8.515.85.C, SLP services include independent living skills training.</p> <p>Waiver: BI Waiver at App. C-2, item c(ii) requires SLP facility to be homelike and provide choice about care and lifestyle.</p>	<p>Statute: See Column A.</p> <p>Regs: No redlines needed beyond adding a reference to new Rule AAA to the SLP reg. Under 10 CCR 2505-10 8.515.85.F, SLP must facilitate client choice regarding services and supports.</p> <p>Waiver: BI Waiver at App. C-2, item c(ii) requires SLP facility to be homelike and provide choice about care and lifestyle.</p>
<p>11. Transitional Living Program (TLP) facilities under BI waiver (note that TLP providers must be licensed as an ALR (see Row 2 above))</p>	<p>Statute: C.R.S. 25.5-6-703(10) is silent with respect to integration, etc. of transitional living facility.</p>	<p>Statute: See Column A.</p> <p>Regs: 10 CCR 2505-10 8.516.30 is silent with respect to being selected by individual; as stated at left, the</p>	<p>Statute: C.R.S. 26-20-103 limits the use of restraints by state agencies as well as public or private entities that contract with or are licensed/certified by state agencies. Otherwise, see Column A.</p>	<p>Statute: See Column A.</p> <p>Regs: No redlines needed beyond adding a reference to new Rule AAA within the TLP reg. Per 10 CCR 2505-10 8.516.30(G)(3),</p>	<p>Statute: See Column A.</p> <p>Regs: See Column B; as stated at left, the Department plans add a reference to new Rule AAA within the TLP reg.</p>

Type of setting	A. Integrated	B. Selected by individual	C. Ensures individual's rights	D. Optimizes autonomy in life choices	E. Facilitates choice regarding services and supports
<p><i>The rules relating to this type of setting are currently being revised.</i></p> <p>Summary of cited authorities: C.R.S. 25.5-6-701 <i>et seq.</i> provides statutory authority for HCBS services for people with brain injuries (BI). Section 703 sets out definitions, including one for transitional living. C.R.S. 26-20-101 <i>et seq.</i> is the Protection of Individuals from Restraint and Seclusion Act.</p> <p>CDPHE's general licensure standards are set forth in 6 CCR 1011-1 Chapter 02, and its regulations protecting people from involuntary restraints in licensed health care facilities are set forth in Chapter 02 Part 8. 10 CCR 2505-10 8.515 <i>et seq.</i> regulates services under the Waiver for Persons with Brain Injury (BI), with Section 8.516.30 setting out criteria for the TLP.</p> <p>The cited waiver provides for TLP services.</p>	<p>Regs: The Department plans to add a reference to new Rule AAA within 10 CCR 2505-10 8.516.30.</p> <p>Under 10 CCR 2505-10 8.516.30(E)(6), TLP services "will occur in the community or in natural settings and be non-institutional in nature."</p> <p>8.516.30(C)(4) provides that "[i]tems of personal need or comfort shall be paid out of money set aside from client's[] income." As stated above, new Rule AAA will require that if an individual requests that a provider hold his/her funds, their person-centered plan must document this request as well as the parties' agreement on how the provider should handle the funds (including acknowledgement of the provider's obligations under the SSA's requirements for representative payees, if applicable or if the parties so elect).</p> <p>Waiver: BI Waiver at App. C-2, item c(ii) requires TLP facility to facilitate community integration.</p>	<p>Department plans add a reference to new Rule AAA within the TLP reg.</p> <p>Waiver: BI Waiver at App. B-7 and App. D-1, items b & c confirms that people are informed of feasible service alternatives provided by the waiver and the choices of either institutional or home and community-based services, and that the case manager provides a choice of providers.</p>	<p>Regs: As stated at left, the Department plans to add a reference to new Rule AAA within the TLP reg. 10 CCR 2505-10 8.516.30(H) makes rights in 8.515.80(C) (for day treatment facilities under BI waiver) applicable, and adds more privacy in correspondence. The Department plans to propose redlines to 8.516.30(E) to clarify that TLP providers may not use restraints or seclusion (as stated in the waiver).</p> <p>Also, 6 CCR 1011-1 Chapter 02 Part 8 limits the use of restraints in all licensed health care facilities.</p> <p>Waiver: Per BI waiver App. G-2, TLP is prohibited from the use of restraints and seclusion.</p>	<p>TLP helps client work toward goals that include personal and living independence.</p> <p>Waiver: BI Waiver at App. C-2, item c(ii) requires TLP facility to be homelike and provide choice about care and lifestyle.</p>	<p>Waiver: BI Waiver at App. C-2, item c(ii) requires TLP facility to be homelike and provide choice about care and lifestyle.</p>
<p>12. Youth Day Service settings under the Children's Extensive Support (CES) Waiver</p> <ul style="list-style-type: none"> • Child's home (see Row 8) • Provider's home (see Row 8 and regulations at right regarding family child care homes) • Other settings in the community <p><i>The Department's rule relating to the Youth Day Service is currently being drafted for eventual public notice and codification at 10 CCR 2505-10 8.503.40.A.</i></p> <p>Summary of cited authorities: C.R.S. 25.5-10-201 <i>et seq.</i> sets forth statutory standards and procedures for providing services to individuals with IDD. C.R.S. 26-6-101 <i>et seq.</i> is the Child Care Licensing Act. C.R.S. 26-20-101 <i>et seq.</i> is the Protection of Individuals from Restraint and Seclusion Act.</p> <p>The Department's regulations for the Children's Extensive Support (CES) Waiver are set forth in 10 CCR 2505-10 8.503, and its general regulations for the provision of services to individuals with IDD are set forth in 10 CCR 2505-10 8.600 <i>et seq.</i> CDHS's regulations for child welfare services and facilities are set forth in 12 CCR 2509 <i>et seq.</i>, also known as Staff Manual Volume 7. Within Volume 7, CDHS regulates child care centers at 12 CCR 2509-8 7.702 <i>et seq.</i>, family child care homes at 7.707 <i>et seq.</i>,</p>	<p>Statute: C.R.S. 25.5-10-201 declares the General Assembly's intent that individuals with IDD be included in community life, but does not specify integration as a requirement for particular settings.</p> <p>Regs: The Youth Day Service rule has not yet been promulgated. When it publishes this rule, the Department plans to include a reference to new Rule AAA.</p> <p>Under 12 CCR 2509-8 7.702.51(C), the child care center must make a reasonable effort to integrate children with IDD with other children.</p> <p>The Department plans to work with CDHS to provide in CDHS's regulations that child care centers (at 12 CCR 2509-8 7.702 <i>et seq.</i>), family child care homes (7.707 <i>et seq.</i>), and school-age child care centers (7.712 <i>et seq.</i>) that provide services under the CES Waiver must comply with the Department's criteria for such providers.</p> <p>Waiver: CES Waiver is silent w/r/t integration, etc.</p>	<p>Statute: Statutes do not address whether the child chooses the Youth Day Service setting.</p> <p>Regs: See Column A. CDHS's child care center regulations do not address whether the child chooses the setting. As stated at left, when it publishes its Youth Day Service rule, the Department plans to include a reference to new Rule AAA.</p> <p>Waiver: CES Waiver, App. B-7, provides that the child's parents, guardian, or representative are informed of any feasible alternatives under the waiver and given choice of either institutional or home and community based services. The case manager provides the child's parents, guardian, or representative with a choice of providers as well as choice of whether these services will be provided in the community or in an Intermediate Care Facility for Individuals with an Intellectual Disability (ICF/IID).</p>	<p>Statute: C.R.S. 25.5-10-216 through -240 protect the rights of individuals with IDD in general (-218), and in particular with respect to privacy (-223) and freedom from coercion and restraint (-221). Dignity and respect are protected through C.R.S. 25.5-10-201 and -216 through -240 as a whole.</p> <p>C.R.S. 26-6-106(2)(g) authorizes child care facility licensing rules to "safeguard the legal rights of children served," but does not specify which rights.</p> <p>C.R.S. 26-20-103 limits the use of restraints by state agencies as well as public or private entities that contract with or are licensed/certified by state agencies.</p> <p>Regs: See Column A. As stated at left, when it publishes its Youth Day Service rule, the Department plans to include a reference to new Rule AAA.</p> <p>10 CCR 2505-10 8.604.1 (relating to people with IDD) reiterates that people receiving services have the same rights as others; 8.604.2 requires providers to protect rights in C.R.S. 25.5-10-218 through -231 (the Department plans to change this to C.R.S. 25.5-10-216 through -240); and 8.608.3 thru 8.608.5 limit the use of restraints. The Department plans to propose redlines to some or all of these regulations to more explicitly state that individuals have rights of privacy, dignity, respect, and freedom from coercion and restraint, and to require</p>	<p>Statute: See Column B.</p> <p>Regs: See Column A.</p> <p>Waiver: See Column A.</p>	<p>Statute: See Column B.</p> <p>Regs: See Column A.</p> <p>Waiver: See Column A.</p>

Type of setting	A. Integrated	B. Selected by individual	C. Ensures individual's rights	D. Optimizes autonomy in life choices	E. Facilitates choice regarding services and supports
<p>and school-age child care centers at 7.712 <i>et seq.</i></p> <p>The cited waiver provides for Youth Day services.</p>			<p>that any use of restraints be based on an assessed need after all less restrictive interventions have been exhausted; be documented in the individual's person-centered plan as a modification of the generally applicable settings criteria, consistent with the standards in Rule BBB; be compliant with any applicable waiver; and be reassessed over time.</p> <p>In 10 CCR 2505-10 8.500.15, 8.500.105, and 8.503.150, the Department plans to update references from the outdated C.R.S. 27-10.5-101 <i>et seq.</i> or 112 <i>et seq.</i> to the current C.R.S. 25.5-10-216 through -240.</p> <p>10 CCR 2505-10 8.609.5(B)(6) presumes that people can manage their own funds and possessions unless their plan documents limitations and a plan to increase this skill.</p> <p>Also, 12 CCR 2509-8 7.702.56, 7.707.8, and 7.712.55 forbid child care centers, family child care homes, and school-age child care centers from using harmful, humiliating, or frightening measures against a child.</p> <p>Waiver: CES Waiver, App. G-2, describes statutory and regulatory protections for rights. This description should be updated; for example, 2 CCR 503, Volume 16, has been repealed (with the transfer of DIDD (then DDS) from CDHS to the Department.</p>		

Set 2 of federal criteria: standards applicable to provider-owned or controlled residential settings (42 C.F.R. § 441.301(c)(4))

Home and community-based settings must have all of the following qualities, and such other qualities as [CMS] determines to be appropriate, based on the needs of the individual as indicated in their person-centered service plan: . . .

(vi) In a provider-owned or controlled residential setting, in addition to the qualities at §441.301(c)(4)(i) through (v), the following additional conditions must be met:

(A) The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity. For settings in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.

(B) Each individual has privacy in their sleeping or living unit:

(1) Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.

(2) Individuals sharing units have a choice of roommates in that setting.

(3) Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.

(C) Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time.

(D) Individuals are able to have visitors of their choosing at any time.

(E) The setting is physically accessible to the individual.

(F) Any modification of the additional conditions, under §441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan. The following requirements must be documented in the person-centered service plan:

- (1) Identify a specific and individualized assessed need.
- (2) Document the positive interventions and supports used prior to any modifications to the person-centered service plan.
- (3) Document less intrusive methods of meeting the need that have been tried but did not work.
- (4) Include a clear description of the condition that is directly proportionate to the specific assessed need.
- (5) Include regular collection and review of data to measure the ongoing effectiveness of the modification.
- (6) Include established time limits for periodic reviews to determine if the modification is still necessary or can be terminated.
- (7) Include the informed consent of the individual.
- (8) Include an assurance that interventions and supports will cause no harm to the individual.

New Rule BBB will provide that the above standards apply to all provider-owned or controlled residential settings in which HCB services are provided, except where HCB services are otherwise permitted to be delivered in a setting that is institutional or does not meet the HCBS settings standards, such as respite available under certain waivers. See 79 Fed. Reg. at 3011. Palliative/Supportive Care services provided outside the child’s home (under the Children with Life-Limiting Illness waiver) are similar to respite, and new Rule BBB will not apply to such services. In addition to protecting the federally prescribed rights as set forth above, new Rule BBB will also protect some of the rights currently set forth in 10 CCR 2505-10 8.515.80(C) (rights of participants in the Waiver for People with Brain Injury).

Table 2: standards applicable to provider-owned or -controlled residential settings

Type of setting	A.Landlord/tenant rights	B.Privacy in sleeping/living unit	C.Freedom over schedule and access to food	D.Visitors at any time	E.Physically accessible	F.Documented justification for any modification to these conditions
1. Adult day services centers	N/A—this type of setting is not residential.					
2. Alternative care facilities (ACFs) <i>The Department has convened a stakeholder workgroup comprised of providers, clients, advocates, and representatives from CDPHE. The workgroup is reviewing current Department regulations for compliance with the HCBS Settings Rule and to make any other necessary updates. The Department is working closely with CDPHE to ensure that any revisions to the HCPF regulations not only address the HCBS Settings Rule, but do not conflict with the assisted living residence (ALR) regulations with which ACFs must comply. At the same time, CDPHE is currently working with stakeholders, including representatives from the Department, to update its ALR regulations.</i> Summary of cited authorities: The Department’s regulations require an ACF to be licensed by CDPHE as an assisted living residence (ALR) and to meet other	Statute: 25-27-104.5 contemplates leases but does not require them or require that they provide protections comparable to landlord/tenant law. Regs: For ALRs generally: 6 CCR 1011-1 Chap 07 1.104(5)(i) requires ALR to have a policy for eviction, and 1.105(6) limits discharge of residents, but they do not say that the policy must comply with landlord/tenant rights; 1.105(2) requires a written resident agreement but does not require that it provide protections comparable to landlord/tenant law. For ACFs specifically: 10 CCR 2505-10 8.49 is silent with respect to landlord/tenant rights. The Department plans to add a reference to new Rule BBB within 10 CCR 2505-10 8.495. Waiver: EBD Waiver is silent with respect to landlord/tenant rights. CMHS Waiver, Attach. 2, notes plans to “support providers in documenting protections and appeals comparable to those provided	Statute: 25-27-104 and 25-27-104.5 are silent with respect to privacy in unit. Regs: As stated at left, the Department plans to add a reference to new Rule BBB within its ACF regulation. Regarding the three components of privacy in the federal rule: (1) The Department plans to change 10 CCR 2505-10 8.495.4.G (“Clients and their roommates determined capable to control access to private personal quarters, shall be allowed to lock their doors and control access to their quarters” and 8.495.6.H(3) (“Doors to bedrooms shall not be locked unless the resident is able to manage the key independently”) to provide that “individuals shall have personal quarters with entrance doors lockable by the individual and shall control access to their quarters, unless otherwise specified in their	Statute: See Column B. Regs: Under 10 CCR 2505-10 8.495.6.E(1), ACFs must maintain a home-like quality and feel. 8.495.6.E(9) provides that “Facilities shall provide nutritious food and beverage that clients have access to at all times.” 8.495.4.H provides that “Clients shall have unscheduled access to food and food preparation areas if determined capable to appropriately handle cooking activities.” The Department plans to change this regulation to state that “Clients shall have access to food at all times. Clients shall have access to food preparation areas if they can appropriately handle any equipment in these areas.” In addition, as stated at left, the Department plans to add a reference to new Rule BBB within its ACF regulation.	Statute: See Column B. Regs: 6 CCR 1011-1 Chap 07 1.106(1)(k) protects right to visitors, but not necessarily at any time. As stated at left, the Department plans to add a reference to new Rule BBB within its ACF regulation. Waiver: EBD Waiver and CMHS Waiver at App. G-2, item b, refer to visitors, but not necessarily at any time.	Statute: See Column B. Regs: No redlines needed beyond adding a reference to new Rule BBB within the Department’s ACF regulation. 6 CCR 1011-1 Chap 07 1.106(1)(g) and 1.112(2) protect right to use of and access to dining room, other common areas, and building. Waiver: EBD Waiver, and CMHS Waiver are silent with respect to physical accessibility.	Statute: See Column B. Regs: 10 CCR 2505-10 8.495.6.E(10) provides for client’s cooking capacity to be assessed and limited if necessary, and for the foregoing to be contained in care plan. Otherwise silent with respect to documenting modifications to the additional conditions; as stated at left, the Department plans to add a reference to new Rule BBB within its ACF regulation. Waiver: See Column E.

Type of setting	A. Landlord/tenant rights	B. Privacy in sleeping/living unit	C. Freedom over schedule and access to food	D. Visitors at any time	E. Physically accessible	F. Documented justification for any modification to these conditions
<p>criteria, as set forth in 10 CCR 2505-10 8.495.</p> <p>C.R.S. 25-27-101 <i>et seq.</i> provides statutory authority for CDPHE to regulate ALRs, including by implementing the minimum standards in Section 104. C.R.S. 25.5-6-301 <i>et seq.</i> provides statutory authority for HCBS services for people who are elderly, blind, or physically disabled (EBD). Section 303 sets out definitions, including one for ACFs.</p> <p>CDPHE’s general licensure standards are set forth in 6 CCR 1011-1 Chapter 02, and its regulations protecting people from involuntary restraints in licensed health care facilities are set forth in Chapter 02 Part 8. CDPHE’s regulations for ALRs are set forth in 6 CCR 1011-1 Chap 07.</p> <p>The cited waivers provide for ACF services.</p>	<p>under Colorado landlord tenant law.” The Department plans to delete references to ACFs in the BI Waiver (with ACFs being replaced by SLPs and TLPs).</p>	<p>person-centered care plan. Only appropriate staff shall have keys to private quarter doors, as specified in the person’s plan.”</p> <p>(2) 8.495.4.F. provides that “the provider will accommodate roommate choices within reason.” The Department plans to strike “within reason” to prevent providers from interfering with roommate choices outside of the person-centered planning process.</p> <p>(3) 8.495.4.E is compliant with the federal rule (“Clients shall be allowed to decorate and use personal furnishings in their bedrooms in accordance with house rules while maintaining a safe and sanitary environment at all times.”).</p> <p>Waiver: EBD Waiver at App. G-2, item b requires ACF to be homelike and provide privacy. CMHS Waiver at App. G-2, item b-i refers to regulatory protections for privacy in general (see Table 1, cell C-2 above).</p>	<p>Waiver: EBD Waiver and CMHS Waiver do not address freedom over schedule (except in CDASS context) or access to food.</p>			
<p>3. Child Residential Habilitation settings</p> <ul style="list-style-type: none"> Foster Care Homes (no more than 3 foster care children) Kinship Foster Care Non-certified Kinship Care Specialized group facilities <ul style="list-style-type: none"> Group Homes (up to 6 children if three are in CHRP program) Group Centers (up to 7 children if two are in CHRP program or 9 children if one is in CHRP program) Residential Child Care Facilities (RCCFs) <p><i>The rules relating to this type of setting are currently being revised.</i></p> <p><i>The Department plans to work with CDHS on regulatory and/or waiver edits that will have minimal impact on the numerous foster care homes, SGFs, and RCCFs that</i></p>	<p>Statute: Statutes are silent with respect to landlord/tenant rights, etc. for child residential habilitation settings.</p> <p>Regs: CDHS child welfare regulations are silent with respect to landlord/tenant rights, etc. for child residential habilitation settings.</p> <p>The Department plans add a reference to new Rule BBB in the Department’s CHRP-specific regulations (10 CCR 2505-10 8.508). In Colorado, the age of majority for purposes of entering into a binding contract is 18. Hence, the Department plans to require that the child’s parent, guardian, or other legal representative sign a lease on the child’s behalf.</p> <p>Under 8.604.3(B)(5) (relating to people with IDD), services may not be suspended if doing so would put person at risk of loss of abode. The Department plans to add “or would be in violation of any eviction and appeals processes required under Rule BBB.”</p> <p>Waiver: CHRP waiver is silent with respect to landlord/tenant rights, etc. for child residential habilitation settings.</p>	<p>Statute: See Column A.</p> <p>Regs: 12 CCR 2509-8 7.708.33 (for foster care) and 7.714.31 (for SGFs and RCCFs) provide that “[e]very child has the right to a reasonable degree of privacy.” As stated at left, the Department plans add a reference to new Rule BBB in the Department’s CHRP-specific regulations (10 CCR 2505-10 8.508).</p> <p>Waiver: CHRP waiver, App. C-2, provides that “children residing within a group home have access to the same amenities as those children residing in a foster home such as . . . privacy to the extent that is appropriate according to the child’s needs.” For group homes, CHRP waiver, App. C-2, also refers to CDHS licensing requirements, including “a reasonable degree of privacy.” CHRP waiver does not explicitly provide for the detailed privacy criteria set forth in the HCBS Settings Rule.</p>	<p>Statute: See Column A.</p> <p>Regs: See Column A; the Department plans to add a reference to new Rule BBB in the Department’s CHRP-specific regulations (10 CCR 2505-10 8.508).</p> <p>Waiver: CHRP waiver is silent with respect to freedom over schedule and access to food.</p>	<p>Statute: Under C.R.S. 25.5-10-223, person with IDD has right to reasonable and frequent opportunities to meet with visitors.</p> <p>Regs: 12 CCR 2509-8 7.708.33 (for foster care) and 7.714.31 (for SGFs and RCCFs) protect children’s right to have convenient opportunities to meet with visitors (but not at any time). As stated at left, the Department plans add a reference to new Rule BBB in the Department’s CHRP-specific regulations (10 CCR 2505-10 8.508).</p> <p>Waiver: CHRP waiver, App. C-2, provides that in group homes, “[v]isitors are allowed in the home, however, visitation [may be] dependent upon the child’s court orders if there are concerns about a child’s safety.” For CHRP settings generally, CHRP waiver cites the CDHS regulations cited above.</p>	<p>Statute: See Column A.</p> <p>Regs: See Column A; as stated at left, the Department plans add a reference to new Rule BBB in the Department’s CHRP-specific regulations (10 CCR 2505-10 8.508).</p> <p>Waiver: See Column C.</p>	<p>Statute: See Column A.</p> <p>Regs: 10 CCR 2505-10 8.604.3(A) (relating to people with IDD) and 8.608.2 (same) requires that any suspension of rights and restrictive procedures be documented in plan and monitored. Also, 12 CCR 2509-8 7.714.31 (for SGFs and RCCFs, but not foster homes) requires that restriction of certain (not all) rights be documented. As stated at left, the Department plans add a reference to new Rule BBB in the Department’s CHRP-specific regulations (10 CCR 2505-10 8.508).</p> <p>Waiver: CHRP waiver at App. G-1 provides that certain rights may be restricted by foster homes and group homes/centers (does not refer to RCCFs). The Department plans to work with CDHS to propose redlines to ensure that restrictions do not inappropriately limit rights in Table 1, and limit rights in Table 2 only according to CMS’s requirements that limitations be set forth and justified in personal plan.</p>

Type of setting	A. Landlord/tenant rights	B. Privacy in sleeping/living unit	C. Freedom over schedule and access to food	D. Visitors at any time	E. Physically accessible	F. Documented justification for any modification to these conditions
<p>serve children who are not enrolled in the CHRP waiver.</p> <p>Summary of cited authorities: C.R.S. 25.5-10-201 <i>et seq.</i> sets forth statutory standards and procedures for providing services to individuals with IDD. C.R.S. 26-6-101 <i>et seq.</i> is the Child Care Licensing Act.</p> <p>The Department’s regulations for CHRP services are set forth in 10 CCR 2505-10 8.508, and its general regulations for the provision of services to individuals with IDD are set forth in 10 CCR 2505-10 8.600 <i>et seq.</i> CDHS’s regulations for child welfare services and facilities are set forth in 12 CCR 2509 <i>et seq.</i>, also known as Staff Manual Volume 7. Within Volume 7, Part 5 (Section 7.401 <i>et seq.</i>) addresses reimbursement and provider requirements, and Part 8 (Section 7.700 <i>et seq.</i>) addresses child care facility licensing. Several of CDHS’s regulations require counties and child welfare providers serving children enrolled in the CHRP waiver to follow the Department’s CHRP-specific regulations. See 12 CCR 2509-5 7.406.2(O) as well as 2509-8 7.708.1(A)(3) for foster care, 7.701.2 for SGFs, and 7.705.21(C) for RCCFs.</p> <p>The cited waiver provides for CHRP services.</p>						
<p>4. Day Habilitation/treatment locations for individuals with IDD</p>	N/A—this type of setting is not residential.					
<p>5. Day treatment facilities under BI waiver</p>	N/A—this type of setting is not residential.					
<p>6. Group Residential Services and Supports (GRSS) community residential homes for four to eight people</p> <p>Summary of cited authorities: C.R.S. 13-21-101 <i>et seq.</i> sets forth provisions on damages in court proceedings. C.R.S. 25.5-6-401 <i>et seq.</i> is the Home- and Community-based Services for Persons with Developmental Disabilities Act. C.R.S. 25.5-10-201 <i>et seq.</i> sets forth statutory standards and procedures for providing services to individuals with IDD. C.R.S. 27-10.5-104 authorizes services and support for people with IDD.</p> <p>CDPHE’s regulations for facilities for individuals with IDD, including group homes, are set forth in 6 CCR 1011-1 Chapter 08. The Department’s regulations</p>	<p>Statute: C.R.S. 25.5-10-214 is silent with respect to landlord/tenant rights, etc.</p> <p>To ensure compliance with the federal rule, the Department plans to propose redlines to or deletion of C.R.S. 13-21-117.5(7), which provides that “[i]n any civil action brought against a provider, a person with [IDD] who is served in a residential setting owned or leased by a provider shall not be considered a tenant of the provider and statutes regarding landlord-tenant relationships shall not apply. . . . No real property rights shall accrue to a person with [IDD] by virtue of placement in a residential setting.”</p> <p>To ensure compliance with the federal rule, the Department plans to propose redlines to or deletion of C.R.S. 13-21-117.5(10), which provides that CCBs and</p>	<p>Statute: See Column A.</p> <p>Regs: As stated at left, the Department plans to add a reference to new Rule BBB to one or more of its regulations regarding GRSS settings (10 CCR 2505-10 8.500.1, 8.500.5.A(5), 8.609.5, and 8.609.8). 6 CCR 1011-1 Chap 08 regs are silent with respect to privacy in sleeping/living unit.</p> <p>Waiver: DD Waiver is silent with respect to privacy in sleeping/living unit.</p>	<p>Statute: See Column A.</p> <p>Regs: As stated at left, the Department plans to add a reference to new Rule BBB to one or more of its regulations regarding GRSS settings (10 CCR 2505-10 8.500.1, 8.500.5.A(5), 8.609.5, and 8.609.8). 6 CCR 1011-1 Chap 08 section 13.8 requires reasonable access to food supplies and between-meal snacks. Regs are silent with respect to freedom over schedule.</p> <p>Waiver: DD Waiver is silent with respect to freedom over schedule and access to food.</p>	<p>Statute: Under C.R.S. 25.5-10-223, person with IDD has right to reasonable and frequent opportunities to meet with visitors. The Department interprets reasonable and frequent as meaning unlimited except as modified through the person-centered plan.</p> <p>Regs: See Column B; as stated at left, the Department plans to add a reference to new Rule BBB to one or more of its regulations regarding GRSS settings (10 CCR 2505-10 8.500.1, 8.500.5.A(5), 8.609.5, and 8.609.8).</p>	<p>Statute: See Column A.</p> <p>Regs: No redlines needed beyond adding a reference to new Rule BBB to one or more of the Department’s regulations regarding GRSS settings (10 CCR 2505-10 8.500.1, 8.500.5.A(5), 8.609.5, and 8.609.8). 6 CCR 1011-1 Chap 08 section 22.10 protects right to use of and access to dining room, other common areas, and building.</p> <p>Waiver: DD Waiver, App. C-2, item c-ii requires accessibility.</p>	<p>Statute: See Column A.</p> <p>Regs: 10 CCR 2505-10 8.604.3(A) (relating to people with IDD) and 8.608.2 (same) requires that any suspension of rights and restrictive procedures be documented in plan and monitored; the Department plans to propose redlines to require that in addition to the existing regulatory procedures, any restrictions of the rights covered by Rule BBB follow the procedures in Rule BBB. As stated at left, the Department plans to add a reference to new Rule BBB to one or more of its regulations regarding GRSS settings (10 CCR 2505-10 8.500.1, 8.500.5.A(5), 8.609.5, and 8.609.8).</p>

Type of setting	A. Landlord/tenant rights	B. Privacy in sleeping/living unit	C. Freedom over schedule and access to food	D. Visitors at any time	E. Physically accessible	F. Documented justification for any modification to these conditions
<p>for the DD Waiver are set forth at 10 CCR 2505-10 8.500 <i>et seq.</i> (see 8.500.1 on GRSS and 8.500.5.A(5) on Residential Habilitation Services and Supports (RHSS)). The Department’s general regulations for the provision of services to individuals with IDD are set forth in 10 CCR 2505-10 8.600 <i>et seq.</i> (see 8.609.5 on comprehensive services and 8.609.8 on GRSS).</p> <p>The cited waiver provides for GRSS services for individuals with IDD.</p>	<p>service agencies may remove a person with IDD from a residential setting if they believe that the person “may be at risk of abuse, neglect, mistreatment, exploitation, or other harm in such setting,” and limits liability for such removals.</p> <p>Regs: The Department plans to add a reference to new Rule BBB to one or more of its regulations regarding GRSS settings (10 CCR 2505-10 8.500.1, 8.500.5.A(5), 8.609.5, and 8.609.8).</p> <p>Under 10 CCR 2505-10 8.500.9(A)(4), a provider under the DD waiver may discontinue services only after documented efforts to resolve the situation. The Department plans to add “and only in compliance with any eviction and appeals processes required under Rule BBB.”</p> <p>Under 8.604.3(B)(5) (relating to people with IDD), services may not be suspended if doing so would put person at risk of loss of abode. The Department plans to add “or would be in violation of any eviction and appeals processes required under Rule BBB.”</p> <p>8.609.5(B)(8) establishes notice requirements relating to changes in residential placements. The Department plans to add a new paragraph at the end of this subsection, stating that in addition to and notwithstanding the foregoing requirements, changes to residential placements must be in compliance with any eviction and appeals processes required under Rule BBB.</p> <p>In light of all the foregoing changes, similar changes would be duplicative, and are not necessary, for 6 CCR 1011-1 Chap 08 Section 9.1(B) and (C) and 18.3, relating to resident transfers and terminations.</p> <p>Waiver: DD Waiver is silent with respect to landlord/tenant rights, etc.</p>			<p>Waiver: DD Waiver is silent with respect to right to visitors at any time.</p>		<p>Waiver: DD Waiver, App. G-2, item b-i states that rights suspensions must be justified, reviewed, and documented in plan, and that “the informed consent of the participant [or] his/her guardian for the use of the restrictive procedure” must be obtained. But this description relies on 2 CCR 503, Volume 16, which has been repealed (with the transfer of DIDD (then DDS) from CDHS to the Department); citations should be updated.</p>
<p>7. Individual Residential Services and Supports (IRSS) homes for up to three people</p> <ul style="list-style-type: none"> • Host homes • Homes owned or leased by agency • Family homes (see Row 8) 	<p>Statute: See Row 6, above.</p> <p>Regs: 10 CCR 2505-10 8.609.5(B)(8) is silent with respect to landlord/tenant rights, etc. The Department plans to add a reference to new Rule BBB to one or more of its regulations regarding IRSS settings (10 CCR 2505-10 8.500.1, 8.500.5.A(5), 8.609.5, and 8.609.7).</p>	<p>Statute: Statute is silent with respect to privacy in sleeping/living unit, etc.</p> <p>Regs: See Column A; as stated at left, the Department plans to add a reference to new Rule BBB to one or more of its regulations regarding IRSS</p>	<p>Statute: See Column B.</p> <p>Regs: See Column A; as stated at left, the Department plans to add a reference to new Rule BBB to one or more of its regulations regarding IRSS settings (10 CCR 2505-10 8.500.1, 8.500.5.A(5), 8.609.5, and 8.609.7).</p>	<p>Statute: Under C.R.S. 25.5-10-223, person with IDD has right to reasonable and frequent opportunities to meet with visitors.</p> <p>Regs: See Column A; as stated at left, the Department plans to add a reference to new Rule BBB to one or more of its regulations regarding IRSS settings (10 CCR</p>	<p>Statute: See Column B.</p> <p>Regs: No redlines needed beyond adding a reference to new Rule BBB to one or more of the Department’s regulations regarding IRSS settings (10 CCR 2505-10 8.500.1, 8.500.5.A(5), 8.609.5, and 8.609.7). 10 CCR 2505-10</p>	<p>Statute: See Column B.</p> <p>Regs: 10 CCR 2505-10 8.604.3(A) (relating to people with IDD) and 8.608.2 (same) requires that any suspension of rights and restrictive procedures be documented in plan and monitored; the Department plans to propose redlines to require that in addition to the</p>

Type of setting	A. Landlord/tenant rights	B. Privacy in sleeping/living unit	C. Freedom over schedule and access to food	D. Visitors at any time	E. Physically accessible	F. Documented justification for any modification to these conditions
<ul style="list-style-type: none"> • Own homes (see Row 8) <p>Summary of cited authorities: C.R.S. 13-21-101 <i>et seq.</i> sets forth provisions on damages in court proceedings. C.R.S. 25.5-6-401 <i>et seq.</i> is the Home- and Community-based Services for Persons with Developmental Disabilities Act. C.R.S. 25.5-10-201 <i>et seq.</i> sets forth statutory standards and procedures for providing services to individuals with IDD.</p> <p>The Department’s regulations for the DD Waiver are set forth at 10 CCR 2505-10 8.500 <i>et seq.</i> (see 8.500.1 on IRSS and 8.500.5.A(5) on Residential Habilitation Services and Supports (RHSS)). The Department’s general regulations for the provision of services to individuals with IDD are set forth in 10 CCR 2505-10 8.600 <i>et seq.</i> (see 8.609.5 on comprehensive services and 8.609.7 on IRSS).</p> <p>The cited waiver provides for IRSS services for individuals with IDD.</p>	<p>Under 10 CCR 2505-10 8.500.9(A)(4), a provider under the DD waiver may discontinue services only after documented efforts to resolve the situation. The Department plans to add “and only in compliance with any eviction and appeals processes required under Rule BBB.”</p> <p>Under 8.604.3(B)(5) (relating to people with IDD), services may not be suspended if doing so would put person at risk of loss of abode. The Department plans to add “or would be in violation of any eviction and appeals processes required under Rule BBB.”</p> <p>8.609.5(B)(8) establishes notice requirements relating to changes in residential placements. The Department plans to add a new paragraph at the end of this subsection, stating that in addition to and notwithstanding the foregoing requirements, changes to residential placements must be in compliance with any eviction and appeals processes required under Rule BBB.</p> <p>Waiver: DD Waiver is silent with respect to landlord/tenant rights, etc.</p>	<p>settings (10 CCR 2505-10 8.500.1, 8.500.5.A(5), 8.609.5, and 8.609.7).</p> <p>Waiver: DD Waiver is silent with respect to privacy in sleeping/living unit.</p>	<p>Waiver: DD Waiver is silent with respect to freedom over schedule and access to food.</p>	<p>2505-10 8.500.1, 8.500.5.A(5), 8.609.5, and 8.609.7).</p> <p>Waiver: DD Waiver is silent with respect to right to visitors at any time.</p>	<p>8.609.7(A)(9) requires accessibility.</p> <p>Waiver: DD Waiver, App. C-2, item c-ii requires accessibility.</p>	<p>existing regulatory procedures, any restrictions of the rights covered by Rule BBB follow the procedures in Rule BBB.</p> <p>As stated at left, the Department plans to add a reference to new Rule BBB to one or more of its regulations regarding IRSS settings (10 CCR 2505-10 8.500.1, 8.500.5.A(5), 8.609.5, and 8.609.7).</p> <p>Waiver: DD Waiver, App. G-2, item b-i states that rights suspensions must be justified, reviewed, and documented in plan, and that “the informed consent of the participant [or] his/her guardian for the use of the restrictive procedure” must be obtained. But this description relies on 2 CCR 503, Volume 16, which has been repealed (with the transfer of DIDD (then DDS) from CDHS to the Department); citations should be updated.</p>
<p>8. Private homes belonging to clients or their families, professional provider offices, and clinics</p>	<p>Generally N/A—private homes belonging to clients or their families are not generally provider-owned or -controlled, and professional provider offices and clinics are not residential.</p> <p>As stated above, however, New Rule BBB will generally apply to all provider-owned or controlled residential settings in which HCBS services are provided; hence, it will apply to situations where a family caregiver is a provider and owns the home in which he or she provides services to a family member. For purposes of site-specific assessments (e.g., Provider Transition Plans and site visits), Colorado plans to draw on its understanding of the way most family-caregiver-owned homes operate in presuming that they are compliant with these requirements. Anyone may seek to rebut this presumption by providing information about a particular setting to the Department. For situations where a family caregiver is a provider and owns the home in which he or she provides services to a family member, Colorado plans to test its presumption by conducting site visits at a random selection of family-caregiver-owned homes; assuming the presumption holds, Provider Transition Plans will not be required for all family-caregiver-owned homes.</p>					
<p>9. Supported Employment/vocational services locations</p>	<p>N/A—this type of setting is not residential.</p>					
<p>10. Supported Living Program (SLP) facilities under BI waiver (note that SLP providers must be licensed as an ALR (see Row 2 above))</p> <p><i>The rules relating to this type of setting are currently being revised.</i></p> <p>Summary of cited authorities: C.R.S. 25.5-6-701 <i>et seq.</i> provides statutory authority for HCBS services for people with brain injuries (BI). Section 703 sets out definitions, including one for supportive care campuses.</p> <p>10 CCR 2505-10 8.515 <i>et seq.</i> regulates services under the BI Waiver, with Section 8.515.85 setting out criteria for the SLP.</p>	<p>Statute: C.R.S. 25.5-6-703(9) is silent with respect to landlord/tenant rights, etc. for “supportive care campus.”</p> <p>Regs: Under 10 CCR 2505-10 8.515.85.F, SLP must put in place a lease or other written agreement that addresses eviction processes and appeals.</p> <p>The Department plans to add a reference to new Rule BBB within 10 CCR 2505-10 8.515.85.</p> <p>Also, the SLP regs currently include a paraphrased restatement of the federal settings criteria (at 8.515.85.F(1)), F(2), and H(1)) and the process for modifying these criteria in particular cases (at F(3)). When it promulgates Rules AAA and BBB, the Department will eliminate this</p>	<p>Statute: See Column A.</p> <p>Regs: Under 10 CCR 2505-10 8.515.85.F, SLP must ensure privacy in the client’s unit including lockable doors, choice of roommates, and freedom to furnish or decorate the unit.</p> <p>See Column A; as stated at left, the Department plans to add a reference to new Rule BBB within its SLP regulation and to eliminate potential duplication or inconsistency between the SLP regulation and new Rule BBB.</p> <p>Waiver: BI Waiver at App. C-2, item c(ii) requires SLP facility to be homelike and provide privacy.</p>	<p>Statute: See Column A.</p> <p>Regs: Under 10 CCR 2505-10 8.515.85.F, SLP must ensure that clients have the freedom and support to control their own schedules and activities, and have access to food at any time. 8.515.85.J(1)(a) limits cooking but not access to food.</p> <p>See Column A; as stated at left, the Department plans to add a reference to new Rule BBB within its SLP regulation and to eliminate potential duplication or inconsistency between the SLP regulation and new Rule BBB.</p>	<p>Statute: See Column A.</p> <p>Regs: Under 10 CCR 2505-10 8.515.85.F, SLP must enable clients to have visitors of their choosing at any time.</p> <p>See Column A; as stated at left, the Department plans to add a reference to new Rule BBB within its SLP regulation and to eliminate potential duplication or inconsistency between the SLP regulation and new Rule BBB.</p> <p>Waiver: See Column A.</p>	<p>Statute: See Column A.</p> <p>Regs: Under 10 CCR 2505-10 8.515.85.F, SLP must be physically accessible.</p> <p>See Column A; as stated at left, the Department plans to add a reference to new Rule BBB within its SLP regulation and to eliminate potential duplication or inconsistency between the SLP regulation and new Rule BBB.</p> <p>Waiver: See Column A.</p>	<p>Statute: See Column A.</p> <p>Regs: Under 10 CCR 2505-10 8.515.85.F, there must be documentation for modification to conditions.</p> <p>See Column A; as stated at left, the Department plans to add a reference to new Rule BBB within its SLP regulation and to eliminate potential duplication or inconsistency between the SLP regulation and new Rule BBB.</p> <p>Waiver: See Column A.</p>

Type of setting	A. Landlord/tenant rights	B. Privacy in sleeping/living unit	C. Freedom over schedule and access to food	D. Visitors at any time	E. Physically accessible	F. Documented justification for any modification to these conditions
The cited waiver provides for SLP services.	restatement in order to avoid duplication and potential inconsistency. Waiver: SLP is provided under BI waiver, which is silent with respect to landlord/tenant rights, etc.		Waiver: BI Waiver at App. C-2, item c(ii) requires SLP facility to be homelike and provide access to food and kitchen facilities.			
11. Transitional Living Program (TLP) facilities under BI waiver (note that TLP providers must be licensed as an ALR (see Row 2 above)) <i>The rules relating to this type of setting are currently being revised.</i> Summary of cited authorities: C.R.S. 25.5-6-701 <i>et seq.</i> provides statutory authority for HCBS services for people with brain injuries (BI). Section 703 sets out definitions, including one for transitional living. 10 CCR 2505-10 8.515 <i>et seq.</i> regulates services under the BI Waiver, with Section 8.516.30 setting out criteria for the TLP. The cited waiver provides for TLP services.	Statute: C.R.S. 25.5-6-703(10) is silent with respect to landlord/tenant rights, etc. for transitional living facilities. Regs: 10 CCR 2505-10 8.516.30 is silent with respect to landlord/tenant rights for TLP facilities. The Department plans to add a reference to new Rule BBB within 10 CCR 2505-10 8.516.30. Waiver: TLP is provided under BI waiver, which is silent with respect to landlord/tenant rights, etc.	Statute: See Column A. Regs: See Column A; as stated at left, the Department plans to add a reference to new Rule BBB within its TLP regulation. Waiver: BI Waiver at App. C-2, item c(ii) requires TLP facility to be homelike and provide privacy.	Statute: See Column A. Regs: See Column A; as stated at left, the Department plans to add a reference to new Rule BBB within its TLP regulation. Waiver: BI Waiver at App. C-2, item c(ii) requires TLP facility to be homelike and provide access to food and kitchen facilities.	Statute: See Column A. Regs: See Column A; as stated at left, the Department plans to add a reference to new Rule BBB within its TLP regulation. Waiver: See Column A.	Statute: See Column A. Regs: See Column A; as stated at left, the Department plans to add a reference to new Rule BBB within its TLP regulation. Waiver: See Column A.	Statute: See Column A. Regs: See Column A; as stated at left, the Department plans to add a reference to new Rule BBB within its TLP regulation. Waiver: See Column A.
12. Youth Day Service settings under the Children's Extensive Support (CES) Waiver	N/A—this type of service is not residential. To the extent that the service is provided in the child's or provider's home, see Row 8.					

Additional updates: Under the Brain Injury (BI) Waiver, respite is defined as “Services provided to individuals unable to care for themselves; furnished on a short-term basis because of the absence or need for relief of those persons normally providing the care.” BI Waiver, App. C. The BI Waiver regulations state that “Respite Care means services as defined at Section 8.516.70.” 10 CCR 2505-10 8.515.2. The cited regulation, in turn, states that “[a]n individual client shall be authorized for no more than a cumulative total of thirty (30) days of respite care in each certification period unless otherwise authorized by the Department.” *Id.* 8.516.70. The Department will propose to add this modifiable 30-day limit to the waiver.

The Supported Living Services (SLS) Waiver states that “Respite services [are] provided on a short-term basis, because of the absence or need for relief to those persons who normally provide care for the participant.” SLS Waiver, App. C. In addition, SLS waiver participants can obtain only a limited amount of respite, because they are subject to a Service Plan Authorization Limit (SPAL), that is, “an annual upper payment limit of total funds available to purchase services to meet the client’s ongoing needs.” *Id.* 8.500.90. The Department will propose to add a modifiable 30-day limit, similar to the one in the BI Waiver regulations, to the SLS Waiver and regulations.

Global updates: in 10 CCR 2505-10 8.500 *et seq.*, 8.500.90 *et seq.*, and 8.503 *et seq.* (regulations for DD, SLS, and CES waivers), and 8.600 *et seq.* (regulations for individuals with IDD), the Department plans to update definitions and references involving the Division for Developmental Disabilities and the Operating Agency (*i.e.*, the former DDD within CDHS) to the Division for Intellectual & Developmental Disabilities (*i.e.*, the current DIDD within HCPF). In these regulatory sections and in 10 CCR 2505-10 8.100.1 (Definitions), the Department also plans to update references involving intermediate care facilities for the mentally retarded (ICF/MRs or ICF-MRs) to intermediate care facilities for individuals with intellectual disabilities (ICF/IIDs).