NCAPPS

Guide for Improving Processes for Documenting and Implementing Modifications and Rights Restrictions in Home and Community-Based Services

September 2024

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Introduction

The [National Center on Advancing Person-Centered Practices and Systems (NCAPPS)](#) defines person-centered planning as a "dynamic way to learn about the choices and interests that make up someone's idea of a good life — and to identify the services and supports needed to achieve that life."[1] It's a process that is directed by the person with the helpers that they choose. Key components of person-centered planning include supporting people to understand their basic human rights, make informed decisions for themselves, and have control over their lives to the greatest extent possible. When people with disabilities and older adults receiving Home and Community-Based Services (HCBS) are supported to take reasonable risks, fail, and learn from their mistakes, it can lead to personal growth, greater autonomy, and increased self-confidence.

However, at times, a person's actions may pose a significant health and safety risk to themselves or others. When this happens, the person's helpers, such as their family member, service provider, and case manager should work with them to identify and test out strategies for minimizing the risk without limiting their rights. Oftentimes, these strategies are successful, but in other instances, a person's rights may need to be modified in HCBS settings as a last resort to ensure the health and safety of themselves and others. This modification can sometimes result in a "rights restriction" where a person's rights are modified on a time-limited basis. In these instances, as outlined by the [HCBS Final Rule](#), the modification of the person's rights must be supported by a specific assessed need and justified and documented in the individual's person-centered plan.

Despite the directives in the HCBS Final Rule, heightened scrutiny site visits by the Centers for Medicare and Medicaid Services (CMS) have found that settings continue to place modifications on people receiving services without proper documentation, justification, or the informed consent of the person.[2] Settings also frequently implement blanket modifications on groups of people instead of in an individualized manner based on people's specific needs.

This resource was created by NCAPPS for state human service agency administrators interested in improving processes for identifying, documenting, implementing, and phasing out modifications in compliance with the person-centered planning requirements of the HCBS Final Rule within [provider-owned and controlled settings](#). This resource outlines seven recommended steps for human service administrators to pursue in collaboration with community partners and advocates.

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[1] Tondora, J., Croft, B., Kardell, Y., Camacho-Gonsalves, T., and Kwak, M. (2022). Five Competency Domains for Person-Centered Planning. Cambridge, MA: National Center on Advancing Person-Centered Practices and Systems.
[2] Rajcevic, S., Croft, B., and Brasfield, B. (2024). A National Environmental Scan of Technical Assistance Needs for Person-Centered Planning. Cambridge, MA: National Center on Advancing Person-Centered Practices and Systems.

Requirements for Documenting Modifications in the Person-Centered Plan

It is crucial for anyone working to improve modifications processes to ground their efforts in the following requirements outlined in the HCBS Final Rule which are as follows:

Any modification or restriction of the person's rights as outlined by the HCBS Final Rule must be supported by a specific assessed need and justified in the person-centered plan. This requirement is meant to minimize the abuse of rights restrictions and modifications and should therefore be applied to all settings, e.g., residential, employment, community. At times, a person's rights may need to be modified or restricted to ensure their safety or the safety of others. In these instances, the following requirements must be documented in the person-centered plan:

- *Identify a specific and individualized assessed need.*

- *Document the positive interventions and supports used prior to any modifications to the person-centered service plan.*

- *Document less intrusive methods of meeting the need that have been tried but did not work.*

- *Include a clear description of the condition that is directly proportionate to the specific assessed need.*

- *Include a regular collection and review of data to measure the ongoing effectiveness of the modification.*

- *Include established time limits for periodic reviews to determine if the modification is still necessary or can be terminated.*

- *Include informed consent of the individual.*

- *Include an assurance that interventions and supports will cause no harm to the individual.*

Regulatory citations: 42 CFR §441.301(c)(2)(xiii)(A)-(H), 42 CFR §441.725(b)(13)(i)-(viii), 42 CFR §441.530(a)(1)(vi)(F)(1)-(8)

Step 1: Establish an Advisory Workgroup

State human service agencies should conduct all change initiatives in collaboration with partners across the system. One way to ensure ongoing input throughout change efforts is to establish an advisory workgroup of people with professional and lived experience of receiving, delivering, or advocating for HCBS. Workgroup members should include people receiving services; family members; service providers, case managers, and representatives from community advocacy organizations. When discussing modifications, it is particularly important for state human service agencies to engage their designated Protection and Advocacy (P&A) agency which may be able to provide information about specific rights violations occurring

within the system. State human service agencies should also recruit people who have on-the-ground experience of how modifications are operationalized such as members of Human Rights Committees (HRCs). The workgroup should meet on a regular monthly basis to move action steps forward, anticipate challenges, and brainstorm solutions.

Step 2: Outline Areas of Concern and Potential Changes

Once the workgroup has been established, members should reflect on the following together:

1. What issues exist with the way modifications are documented and implemented in our system?
   - Is our infrastructure for documenting and implementing modifications sufficient? i.e., the modifications requirements are integrated in person-centered plan documentation, roles and responsibilities for modifications are clearly defined, there's a process for exchanging information about modifications between responsible parties.
   - Do we offer enough education (resources and trainings) to people involved in the process, including people receiving services and family members?
   - Do our existing policies and procedures clearly define expectations for the modifications process?
   - Do we have adequate processes for monitoring the quality of modifications and their implementation?
2. What do we think would need to be done to solve existing problems?

The workgroup's responses to these questions will help outline a "theory for change" i.e., what the workgroup thinks needs to be done that will lead to positive change and improvements regarding processes for modifications.

Step 3: Select Primary Strategies

Based on the results of the discussion in Step 2, workgroup members should select one or more of the following primary strategies:

☐ Strategy 1: Establish an infrastructure for identifying the need for, documenting, implementing, and phasing out modifications.

☐ Strategy 2: Educate and train all responsible parties on requirements for modifications and people's rights.

☐ Strategy 3: Review and refine existing policies and procedures regarding modifications.

☐ Strategy 4: Develop quality monitoring tools and mechanisms to provide oversight of the implementation of modifications.

Step 4: Choose Secondary Strategies and Action Steps

Once an overall strategy has been selected, workgroup members should select one or more of the following secondary strategies and related action steps. When considering which secondary strategies and action steps to pursue, members should consider what:

- Is most pressing to implement based on existing corrective action plans, complaints, or litigation
- Is most feasible to implement in terms of resources, time, and staff capacity
- Has the collective support of state leadership and community advocates
- Has the greatest chance of success
- Has the potential for long-term sustainability

Strategy 1: Establish an infrastructure for identifying the need for, documenting, implementing, and phasing out modifications

Secondary Strategy	Description of Secondary Strategy	Action Steps
☐ 1-a: Ensure person-centered plan forms and processes require information on modifications in compliance with the HCBS Final Rule.	Modifications must be documented in the person-centered plan in compliance with the HCBS Final Rule requirements. Person-centered plan forms and processes should include a requirement that facilitators document information related to modifications.	☐ Specify who completes the documentation for modifications, where the documentation is stored, when it is completed and shared, and how often it is reviewed. ☐ Ensure the HCBS Final Rule documentation requirements for modifications are integrated into any person-centered plan forms and processes. ☐ Develop policies for obtaining the informed consent of the person. For electronic plans, this could include some type of dated electronic signature or approval.
☐ 1-b: Develop a process for sharing information from the person-centered plan about modification(s) between the state, the person or their representative, people chosen by the person, managed care organizations (MCOs), service	Within service systems, information about a person's modification may be contained in several different documents or software specific to the state, MCOs, service providers, and case managers. This means that at times, providers may	☐ Create a process chart for how information about a person's modification(s) gets passed down through the various people and organizations that support them. Identify potential bottlenecks or handoffs where

providers, case managers, and direct support professionals.	not be sharing information with case managers, or vice versa, and the state may not have the most up to date information about a person's modification(s). States should identify how they can best support the flow and exchange of information between the different entities supporting a person and the person themselves.	communication breakdowns may occur. Ensure an assessment of the efficacy of modifications is part of regular person-centered plan reviews. ☐ Review existing person-centered plan processes, software, or databases to identify if functionality exists, or if not, if functionality could be built or enhanced to promote the exchange of information.
☐ 1-c: Review, assess, and modify infrastructure including programmatic, budgetary, and data usage needs.	States need to invest time, energy, and resources into establishing an effective infrastructure for documenting and implementing modifications. At times, this may require a complete overhaul of existing policies and procedures, new planning software or forms, or changes to existing processes, and developing staff capacity. Accordingly, states must assess and understand what they need in terms of resources to establish a robust infrastructure.	☐ Create a strategic plan that outlines goals, objectives, and action steps to ensure compliance with the HCBS Final Rule requirements around modifications. ☐ Review gaps in terms of funding needs or staff capacity to support proper implementation of modifications. ☐ Coordinate and communicate with executive leadership around what is needed. ☐ Budget and allocate staff time to provide training, education, and oversight functions for modifications.
☐ 1-d: Clearly delineate roles and responsibilities for service providers, MCOs, and case managers.	Service providers, case managers, and MCOs may need support in understanding what their roles and responsibilities are regarding documenting and implementing modifications. Contracts can be used as a binding tool to outline expectations and ensure requirements are clearly communicated.	☐ Develop flowcharts that specify roles with regard to identifying, documenting, implementing, and monitoring modifications. ☐ Review current waiver service definitions and contract language to identify if there are areas where roles and responsibilities could be more clearly defined and edit accordingly. ☐ Based upon review and adjustment of service provider and case manager contracts and service definitions, determine if rate changes are needed.

Strategy 2: Educate and train all responsible parties on requirements for modifications and people's rights

Secondary Strategy	Description of Secondary Strategy	Action Steps
☐ 2-a: Create plain language and accessible guides, tools, videos, process charts, case scenarios, and resources, targeted to specific audiences, on how to determine the need for, document, implement, and phase out modifications.	People in services should understand what rights they have and what they should expect when their rights may need to be modified. Additionally, case managers, service providers, and direct support professionals must understand what requirements they must comply with. Materials explaining modifications should be written in plain language and be publicly available. Differences in responsibilities and perspective will require different versions of the materials for each audience.	☐ Gather information from people in services, their representatives, family members, service providers, case managers, and direct professionals about areas of confusion or misunderstanding regarding modifications. ☐ Create plain language and accessible materials targeted for specific audiences outlining the requirements for documenting, implementing, and phasing out modification(s) that speak to the different roles and responsibilities of people involved in the process. Provide materials on an easy to navigate, publicly accessible website. ☐ Sequence training and materials for early and ongoing education. For example, target trainings and materials to transition age youth to ensure they are informed of their rights early in the process. ☐ Conduct a review of current practices for sharing materials to understand whether they are culturally relevant and responsive, with a focus on implicit biases. ☐ Translate materials into commonly spoken languages that are culturally competent and that reflect cultural practices of target populations.

☐ 2-b: Facilitate training sessions and workshops for people who use services and their families to understand their rights and the requirements for modifications.	People in services and their families may not be aware of their rights and the requirements that service providers and case managers must adhere to when implementing a restriction or modification. Offering the opportunity to connect with others around what should be expected when rights are modified supports people in services to better advocate for themselves and others.	☐ Develop training content geared towards people in services and their families to better understand their rights, what constitutes a modification, processes that must be conducted to implement a restriction or a modification, where to go if they believe a modification is not an assessed need, for provider convenience, etc. ☐ Identify various formats for delivering the training including in-person, virtual, hybrid, self-paced, micro-learning modules, videos, podcasts, etc.
☐ 2-c: Facilitate training sessions and workshops for service providers and case managers to establish expectations for identifying, documenting, implementing, and phasing out modifications.	Service providers and case managers have different but distinct roles and responsibilities regarding identifying, documenting, and implementing modifications. Offering engaged and interactive trainings and workshops can provide the opportunity for people to connect through peer-to-peer learning, troubleshoot, ask questions, and gain clarification around modifications requirements and processes.	☐ Develop training content geared towards the specific roles and responsibilities of service providers and case managers to better promote individual rights, identify the need for modifications and document and implement and phase out modifications in alignment with the requirements of the HCBS Final Rule and based on best practices within person-centered planning. ☐ Identify various formats for delivering the training including in-person, virtual, hybrid, self-paced, micro-learning modules, videos, podcasts, etc.

Strategy 3: Review and refine existing policies and procedures regarding modifications

Secondary Strategy	Description of Secondary Strategy	Action Steps
☐ 3-a: Identify existing state policies, regulations, administrative rules and/or statutes under which modifications are currently addressed and may need to be adjusted.	Understanding what regulations currently govern modifications can ensure that all appropriate and relevant policies and procedures are reviewed and updated accordingly.	☐ Complete a scan of agency policies and procedures and identify which sections may impact or govern modifications. ☐ Generate an outline of relevant policies and procedures to review. ☐ Examine whether and how to incorporate modifications into existing human rights policies and Human Rights Committee reviews.
☐ 3-b: Create and integrate consistent definitions, language, requirements, and technical guidance for modifications across state policies and procedures.	Effective implementation of modifications relies on consistent messaging across state policies and procedures. All policies and procedures should be in alignment and support one another.	☐ Clearly define what constitutes a modification. ☐ Review all language and guidance for person-centered language and focus on upholding people's rights. ☐ Review policies and procedures for any conflicting information or processes and edit accordingly.

Strategy 4: Develop quality monitoring tools and mechanisms to provide oversight of the implementation of modifications

Secondary Strategy	Description of Secondary Strategy	Action Steps
☐ 4-a: Establish a process for reviewing the documentation and data collection of the modifications requirements within person-centered plans and implementation at the service provision level.	State agencies must have methods for determining whether modifications are being documented and implemented appropriately within the service system. This includes ensuring that data is regularly being collected and reviewed by service providers and case managers to measure the ongoing effectiveness of modifications. Processes for reviewing compliance with the HCBS Final Rule modifications requirements can include one-on-one interviews, desk reviews of person-centered plan documentation, etc.	☐ Create a process for reviewing documentation and implementation of modifications in compliance with the HCBS Final Rule requirements. ☐ Develop interview guides, checklists for reviewing documentation and policies, and indicators for use by staff conducting the review. ☐ Train staff who will be completing the reviews on the process and quality assurance tools.

	States should closely review provider policies and procedures to ensure that modifications are not inappropriately being placed on groups of people (i.e., blanket restrictions). Quality assurance staff must be trained on indicators of person-centered modifications and what to do if there are concerns.	☐ Establish a process for sharing data with the advisory group and gathering their feedback to drive improvement. ☐ Design a feedback mechanism such as a tool or form for people to report to the state if they are experiencing issues with inadequate documentation or implementation of modifications.
☐ 4-b: Create a performance measurement system.	To engage in continuous quality improvement around modifications, it is necessary that a state first defines what successful implementation of modifications looks like in the state and then develop a performance measurement system that includes specific benchmarks, metrics, and outcomes.	☐ Establish performance metrics for ongoing system evaluation as it relates to modifications. ☐ Conduct routine evaluation of results from quality assurance reviews to understand the big picture and implement improvements. ☐ Develop a process for gathering and using experience information from people in services and families (e.g., surveys, focus groups, quality audits).
☐ 4-c: Gather data about the usage of modifications across service providers.	Understanding how frequently modifications are being implemented by service providers can help states gain a better understanding of their system overall. It can also assist in identifying potential areas of concern i.e., overuse of restrictions by certain providers.	☐ Create a data collection strategy for gathering information about the use and frequency of modifications across provider settings and the challenges and barriers to implementation. ☐ Set indicators for review. ☐ Provide transparent and publicly accessible data regarding usage of modifications.

Step 5: Develop a Measurement Strategy

After selecting strategies and action steps, the advisory workgroup should determine how best to measure progress i.e., how will the workgroup know if the changes implemented are successful? Measuring progress is critical to success as the workgroup will want to ensure that state resources are being used effectively and that the changes being implemented are leading to desired outcomes for the system.

To effectively measure change:
- Use a mix of quantitative and qualitative data.
- Track data over time to identify patterns and trends.
- Integrate measurement into existing systems and processes as much as possible to eliminate potential reporting burdens.
- Disaggregate data by various demographic factors such as race, ethnicity, language, and socioeconomic status to help identify potential systemic disparities.
- Continuously evaluate whether your measurement strategy remains effective in tracking the desired outcomes.
- Be open to modifying and adjusting your measurement strategy if it no longer meets your needs.

To create a measurement strategy, identify:
- What you will measure.
- How you will measure.
- The frequency of data collection.
- Who is responsible for collecting and analyzing the data

Example Measures Based on Secondary Strategy

Secondary Strategy	Example Measures
1-a: Ensure person-centered plan documentation and processes require information on modifications in compliance with the HCBS Final Rule.	• Number of person-centered plans that address all eight requirements for modifications. • Number of person-centered plans that are signed by the person (either in writing or electronically).
1-b: Develop a process for sharing information from the person-centered plan about modification(s) between the state, the person or their representative, people chosen by the person, managed care organizations (MCOs), service providers, case managers, and direct support professionals.	• Number of case managers, service providers, etc. who report increased coordination regarding modifications.
1-c: Review, assess, and modify infrastructure including programmatic, budgetary, and data usage needs.	• Amount of staff time allocated to providing training, education, and oversight functions for modifications.

	• Number of goals met in the agency's strategic plan related to modifications. • Number of executive leadership meetings that have modifications identified as an agenda topic.
1-d: Clearly delineate roles and responsibilities for service providers, MCOs, and case managers.	• Number of service providers, MCOs, and case managers that report understanding their roles and responsibilities regarding modifications
2-a: Create plain language and accessible guides, tools, videos, process charts, case scenarios, and resources on how to determine the need for, document, implement, and phase out modifications targeted to specific audiences.	• Number of resources developed • Number of times resources were accessed • Number of people who report having a better understanding of modifications after reviewing the resources
2-b: Facilitate training sessions and workshops for people who use services and their families to understand their rights and the requirements for modifications.	• Number of people in attendance • Number of people who report an increase in their knowledge of modifications after attending
2-c: Facilitate training sessions and workshops for service providers and case managers to establish expectations for identifying, documenting, implementing, and phasing out modifications.	• Number of people in attendance • Number of people who report an increase in their knowledge of modifications after attending
3-a: Identify existing state policies, regulations, administrative rules and/or statutes under which modifications are currently addressed and may need to be adjusted.	• Number of policies updated • Number of people who report having a greater understanding of the modifications process after reviewing the updated policies
3-b: Create and integrate consistent definitions, language, requirements, and technical guidance for modifications across state policies and procedures.	• Use of consistent terminology across state agencies, provider organizations, MCOs, and case management organizations
4-a: Establish a process for reviewing the documentation and data collection of the modifications requirements within person-centered plans and implementation at the service provision level.	• Number of staff trained on the modifications review process • Number of modifications reviews conducted by staff • Number of people in services and families who report experiencing issues with the documentation and implementation of modifications
4-b: Create a performance measurement system.	• Number of surveys received • Number of focus groups conducted
4-c: Gather data about the usage of modifications across service providers.	• Number of times data was collected • Number of times the public dashboard with data on modifications was updated

Step 6: Finalize an Action Plan

Once the workgroup has selected their strategies and action steps and defined a measurement strategy, it's time to create a plan of action to ensure everyone is clear on who is doing what. The workgroup can copy the recommended template below into a working document and add additional rows as needed to reflect the actions they plan to take.

Example Action Plan Template

Primary Strategy: Write out one of the primary strategies that the workgroup selected in Step 3:

Strategy 1: Establish an infrastructure for identifying the need for, documenting, implementing, and phasing out modifications.

Strategy 2: Educate and train all responsible parties on requirements for modifications and people's rights.

Strategy 3: Review and refine existing policies and procedures regarding modifications.

Strategy 4: Develop quality monitoring tools and mechanisms to provide oversight of the implementation of modifications.

| **Secondary strategy:** Write out one of the secondary strategies that the workgroup selected as part of Step 4. Add rows as needed.	**Action steps:** Write out the action steps related to the secondary strategy selected in the left-hand column (identified in Step 4).	**Timeline:** Month xx Year xxxx – Month xx Year xxxx Write out a general estimate of how long you anticipate it will take you to complete the action steps.	**Measurement strategy:** *How?* Write out how you plan to measure your progress. *Who?* Write out who is responsible for measuring and tracking progress. *When?* Write out how often you plan to collect data. These measurement components were identified in Step 5.	**Responsible parties:** *Who?* Write out who is responsible for completing the action steps identified and carrying out the measurement strategy.	**Status:** ☐ Complete ☐ In Process ☐ Paused ☐ Discontinued **Date of last update: MM/DD/YY** Check the status of your progress towards completing the action steps.

Example Completed Action Plan Template

Primary Strategy: Strategy 2 - Educate and train all responsible parties on requirements for modifications and people's rights.

Secondary strategy:	Action step(s):	Timeline:	Measurement strategy:	Responsible parties:	Status:
Create plain language and accessible guides, tools, videos, process charts, case scenarios, and resources on how to determine the need for, document, implement, and phase out modifications targeted to specific audiences.	- Host a focus group to identify knowledge gaps. - Using the focus group feedback, develop a resource on modifications. - Pilot the resource with providers and case managers to get their input. - Finalize the resource. - Post the resource on public website.	October 2024- February 2025	- Jack will pull the number of website views on the resource each quarter after the resource is posted. - Jill will integrate a question into our yearly provider and case manager survey asking if the resource helped them better understand modifications.	- Sam will coordinate the focus group. - Stacy will develop, pilot, and finalize the resource. - Jack will upload the final resource to the website.	☐ Complete ☒ In Process ☐ Paused ☐ Discontinued **Date of last update: 9/1/24**

Plan-Do-Study-Act (PDSA) Cycles

Knowing where to start with systems change initiatives can sometimes feel daunting and overwhelming, even with the support of partners. One recommendation for state human service agencies is to start small using PDSA cycles. Trying out ideas using small tests is a good way to keep moving in the right direction towards positive change. In PDSA cycles, you test a change by developing a plan (Plan), carry out the test (Do), observe and learn from the results (Study), and determine what adjustments should be made to the test (Act).[3] When developing the action plan for improving processes for modifications, consider what small tests you can try out before finalizing products or processes. For example, when developing interview guides for quality audits, try testing out the interview guide with field reviewers and people who will be asked the questions first to identify if the line of questioning makes sense and if the language is clear. In some cases, you may not need to adjust the interview guide but in others, you may need to make significant changes based on the feedback you receive. Using PDSA cycles can refine deliverables before finalization to ensure they meet people's needs.

PDSA cycle and Model for Improvement—1991, 1994 / FIGURE 8

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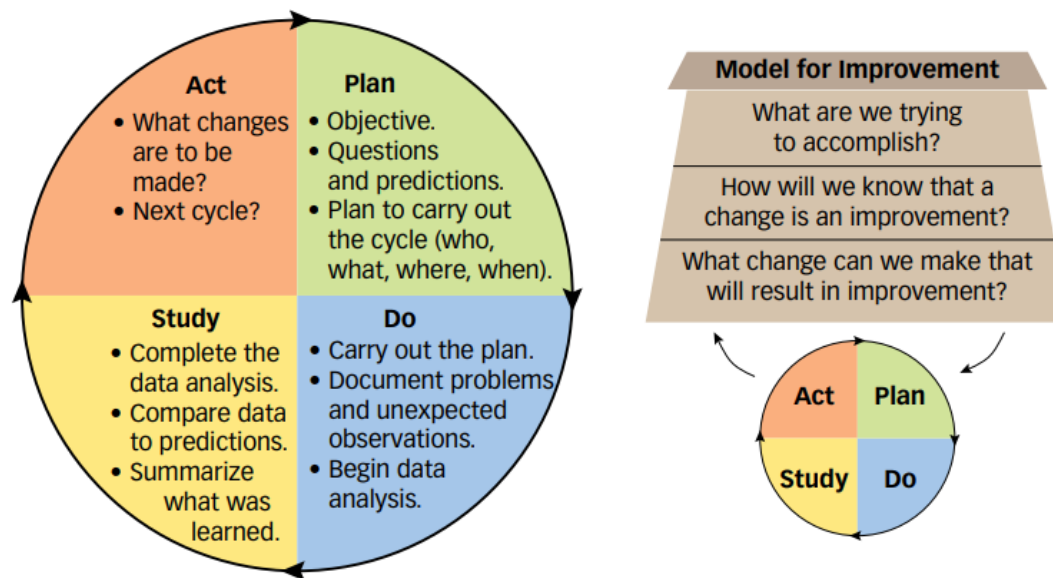
[3] Moen, R.D., & Norman, C. (2010). Clearing up myths about the Deming cycle and seeing how it keeps evolving. Quality Progress, 43, 22-28.

Step 7: Review Results and Determine Next Steps

During regular meetings with the advisory workgroup, spend some time reviewing the action plan and any measures collected to date. Identify if there any obstacles or challenges getting in the way of successfully carrying out the action steps or if you might need to adjust your measurement strategy. Review data and monitor outcomes to ensure the changes you are implementing don't have any unintended consequences for the system. Continue to adjust the action plan as needed to ensure you remain on track to improving processes for identifying, documenting, implementing, and phasing out modifications.

National Resources

The following resources are free and publicly available for download and use for anyone seeking to improve processes for identifying, documenting, implementing, and phasing out modifications:

- Centers for Medicare & Medicaid Services (CMS): Person-Centered Service Planning in HCBS: Individual Rights and Modifications of the Settings Requirements of Provider-Owned or Controlled Residential Settings
- CMS: Person-Centered Service Planning in HCBS - Requirements and Best Practices
- NCAPPS: Promising Practices for Person-Centered Plans
- Council on Quality and Leadership (CQL): Rights Restrictions and Modifications

About NCAPPS

The National Center on Advancing Person-Centered Practices and Systems (NCAPPS) is an initiative from the Administration for Community Living and the Centers for Medicare & Medicaid Services to help states, tribes, and territories implement person-centered practices. It is administered by the Human Services Research Institute (HSRI). NCAPPS partners with a host of national associations and subject matter experts to deliver knowledgeable and targeted technical assistance. You can find us at https://ncapps.acl.gov

Recommended Citation

Rajcevic, S. (2024). *Guide for Improving Processes for Documenting and Implementing Modifications and Rights Restrictions in Home and Community-Based Services*. Cambridge, MA: National Center on Advancing Person-Centered Practices and Systems.