

Assisted Living Facility (ALF) Level II Policy Crosswalk

The following documents were reviewed: Arkansas Code Ann. § 20-10-1701 through 20-10-1709, Arkansas Code Ann. § 20-10-1005, the Rules and Regulations for Assisted Living Facilities Level II in Arkansas, the Living Choices Assisted Living Provider Manual, the AAS-9503 ARChoices Person-Centered Service Plan, and the RN Handbook (procedure manual). The results shown here indicate whether the language in these three documents supported the federal regulations, conflicted with the federal regulations, or was silent in respect to the federal regulations. A more detailed crosswalk follows this summary.

Ark. Code Ann. § 20-10-1701 through 20-10-1709 <https://www.lexisnexis.com/hottopics/arcodes/>

Ark. Code Ann. § 20-10-1005 <http://www.lexisnexis.com/hottopics/arcodes/Default.asp>

Rules and Regulations for Assisted Living Facilities Level II <http://humanservices.arkansas.gov/dms/oltdocuments/alfii.pdf>

Living Choices Assisted Living Provider Manual <https://www.medicaid.state.ar.us/Provider/docs/lcal.aspx>

AAS-9503 ARChoices Person-Centered Service Plan

RN Handbook (procedure manual)

| 42 CFR HCBS Settings Requirements | Evidence | Compliance Level | Remediation Strategies |
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| | <p>the individual's service delivery area. The Living Choices provider list is available on the DHS Share. The DAAS RN must check the provider list on all office days prior to visits to ensure that the most current provider list is used. The most current provider list must be made available to each client and applicant on assessment and reassessment.</p> <ul style="list-style-type: none"> • THE PAID CAREGIVER CANNOT SIGN FOR THE CLIENT ON THE FREEDOM OF CHOICE OR THE PROVIDER LISTING. <p>Freedom of Choice Notice Federal law states that you have the right to choose which agency or agencies you want to provide approved services. Attached is a list of providers available in your area. You do not have to choose the same provider that helped you apply for the Medicaid waiver Program.</p> | | |
| <p>The setting ensures an individual's rights of privacy, dignity, respect, and freedom from coercion and restraint are protected.</p> | <p>Ark. Code Ann. § 20-10-1702</p> <ul style="list-style-type: none"> • Facilities that promote the dignity, individuality, privacy, and decision-making ability of those persons <p>ALF Level II Rules and Regulations 505</p> <ul style="list-style-type: none"> • Ensure that a minimum of one phone jack is available in each resident's apartment or unit for the resident to establish private phone service in his or her name. Residents shall be able to make phone calls in private. <p>ALF Level II Rules and Regulations 603.1</p> <ul style="list-style-type: none"> • A resident has all the rights, benefits, responsibilities, and privileges granted by the constitution and laws and regulations of this state and the United States except where lawfully restricted. The resident has the right to be free of | <p>Partially Compliant</p> <p>Partially Compliant</p> <p>Partially Compliant</p> | <p>The state will review the ALF Level II Rules and Regulations to ensure that the facilities that receive HCBS funding will be compliant with the HCBS Settings rule. The DAAS Provider Certification Unit will monitor and ensure settings compliance for existing providers and any new providers.</p> <p>This requirement is being added to the Living Choices Assisted Living (LCAL) Provider Manual as a Provider Assurance. The LCAL provider manual is in the process of being promulgated with an effective date of October 1, 2016. HCBS settings policy has been incorporated into this manual. It will go to the Legislative Public Health and Rules and Regulations Committees for review and approval in September 2016. Once these rules</p> |

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|--|--|-------------------------|--|
| | <ul style="list-style-type: none"> • Be given the opportunity to refuse medical treatment or services after the resident or his or her responsible party: <ul style="list-style-type: none"> (i.) is advised by the person providing services of the possible consequences of refusing treatment or services, and (ii.) acknowledges that he or she understands the consequences of refusing treatment or services • Be allowed to execute an advance directive or designate a guardian in advance of need to make decisions regarding the resident’s health care should the resident become incapacitated. | | <p>Regulations Committees for review and approval in September 2016. Once these rules are established in the provider manuals, certification procedures will be adjusted to comply with the new rules by July 1, 2017.</p> |
| <p>Provider owned or controlled residential settings: 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 under the landlord/tenant law of the State, county, city, or other designated entity. For setting in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other</p> | <p>ALF Level II Rules and Regulations 602 Except in cases of provisional placements, in the event of involuntary transfer or discharge of a resident, the assisted living facility shall:</p> <ul style="list-style-type: none"> a. Discuss with the resident the decision to transfer or discharge the resident; b. Inform the resident of the reason for the transfer or discharge; c. Inform the resident of any available alternative to the transfer or discharge; d. Provide a thirty (30) day written notice of transfer or discharge, unless an immediate discharge is required to ensure the welfare of the resident or the welfare of other residents may be immediately affected or the conditions found in Ark. Code Ann. § 20-10-1005(a)(1) exist. The written notice shall contain, at a minimum: <ul style="list-style-type: none"> 1. The reason or reasons for the transfer or discharge; 2. Except for a transfer pursuant to Section 404.9, a statement of the resident’s right of | <p>Compliant</p> | <p>This requirement is being added to the Living Choices Assisted Living (LCAL) Provider Manual as a Provider Assurance. The LCAL provider manual is in the process of being promulgated with an effective date of October 1, 2016. HCBS settings policy has been incorporated into this manual. It will go to the Legislative Public Health and Rules and Regulations Committees for review and approval in September 2016. Once these rules are established in the provider manuals, certification procedures will be adjusted to comply with the new rules by July 1, 2017.</p> <p>This written agreement is signed by the resident during the admission process and included as part of the Occupancy Admission Agreement. The transfer/discharge process outlined in the ALF Level II Rules and Regulations 602 and Ark. Code Ann. 20-10-1005 provides a more favorable due process</p> |

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| <p>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.</p> | <p>appeal;</p> <p>3. Except for a transfer pursuant to Section 404.9, a statement that an appeal must be made to the Office of Long Term Care;</p> <p>4. Except for a transfer pursuant to Section 404.9, a statement that the notice of appeal must be made within seven (7) calendar days of the written notice of transfer or discharge to the resident.</p> <p>e. In the event an immediate transfer or discharge is required pursuant to the conditions set forth in Section 602(d), the assisted living facility shall advise the resident or his or her responsible party, and immediate arrangements shall be made based on the written occupancy admission agreement to transfer or discharge such resident to an appropriate facility.</p> <p>f. Where there is no responsible party or the responsible party is unwilling to act, the assisted living facility shall notify the Department of Human Services' Adult Protective Services for the county in which the assisted living facility is located and other appropriate agencies when transfer assistance is needed.</p> <p>g. Provide a copy of pertinent information that must include:</p> <ol style="list-style-type: none"> 1. Identifying information including social security number and Medicaid number if there is one, and birth date; 2. Responsible party contact information; 3. Summary of needs/problems including medications, treatments and diagnosis; 4. Social history, if available; <p>h. Refund to the resident or his or her responsible</p> | | <p>for eviction than the current Arkansas landlord tenant law.</p> |

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|-----------------------------------|---|------------------|------------------------|
| | <p>party any security deposit, less appropriate deductions for damage or specific charges made to the assisted living facility by or on behalf of the resident.</p> <p>i. Document in the resident’s file the reasons for the transfer or discharge. Prior to making such transfer or discharge, the assisted living facility shall:</p> <ol style="list-style-type: none"> 1. Develop a transfer or discharge plan consistent with the occupancy admission agreement; 2. Document in the resident’s file the following: <ol style="list-style-type: none"> A. The reason for the transfer or discharge; B. The strategies used, if any, to prevent involuntary transfer or discharge; C. The fact that the resident or his or her responsible party was informed and the manner in which they were informed; D. The name, address, and telephone number of the individual or location to which the resident is to be transferred or discharged. <p>j. If it is determined that there is a medical need for a transfer to another health care facility because the assisted living facility cannot meet the resident’s needs, such transfers shall be initiated promptly. The registered nurse shall be notified and shall ensure:</p> <ol style="list-style-type: none"> 1. That the resident is receiving appropriate care prior to transfer or discharge; 2. That discharge or transfer occurs in a manner consistent with the medical needs of the resident including arrangements for appropriate transportation. | | |

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|---|--|-------------------------|--|
| <p>Provider owned or controlled residential settings: Each individual has privacy in their sleeping or living unit. Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.</p> | <p>ALF Level II Rules and Regulations 905</p> <ul style="list-style-type: none"> • Each independent apartment or unit shall have an individual lockable entrance and exit. • Each independent apartment or unit shall have at least the following: <ul style="list-style-type: none"> ○ An individual lockable entrance and exit...Keys, code or other opening devise for the door to the independent apartment or unit shall be supplied to residents...All apartments or units shall be accessible by means of a master key or similar system that is available at all times in the facility and for use by designated staff. | <p>Compliant</p> | <p>This requirement is being added to the Living Choices Assisted Living (LCAL) Provider Manual as a Provider Assurance. The LCAL provider manual is in the process of being promulgated with an effective date of October 1, 2016. HCBS settings policy has been incorporated into this manual. It will go to the Legislative Public Health and Rules and Regulations Committees for review and approval in September 2016. Once these rules are established in the provider manuals, certification procedures will be adjusted to comply with the new rules by July 1, 2017.</p> |
| <p>Provider owned or controlled residential settings: Individuals sharing units have a choice of roommates in that setting.</p> | <p>ALF Level II Rules and Regulations 505</p> <ul style="list-style-type: none"> • Ensure that there shall be only one resident to an apartment or unit except in situations where residents are husband and wife or are two consenting adults who have voluntarily agreed in writing to share an apartment or unit that has been executed by the resident or responsible party as appropriate. | <p>Compliant</p> | <p>This requirement is being added to the Living Choices Assisted Living (LCAL) Provider Manual as a Provider Assurance. The LCAL provider manual is in the process of being promulgated with an effective date of October 1, 2016. HCBS settings policy has been incorporated into this manual. It will go to the Legislative Public Health and Rules and Regulations Committees for review and approval in September 2016. Once these rules are established in the provider manuals, certification procedures will be adjusted to comply with the new rules by July 1, 2017.</p> |
| <p>Provider owned or controlled residential settings: Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.</p> | <p>ALF Level II Rules and Regulations 603.1</p> <ul style="list-style-type: none"> • Be allowed to retain and use personal possessions, including, but not limited to, clothing and furnishings, as space permits. The number of personal possessions may be limited for the health and safety of other residents | <p>Compliant</p> | <p>This requirement is being added to the Living Choices Assisted Living (LCAL) Provider Manual as a Provider Assurance. The LCAL provider manual is in the process of being promulgated with an effective date of October 1, 2016. HCBS settings policy has been incorporated into this manual. It will go to the</p> |

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|--|--|----------------------------|--|
| | | | Legislative Public Health and Rules and Regulations Committees for review and approval in September 2016. Once these rules are established in the provider manuals, certification procedures will be adjusted to comply with the new rules by July 1, 2017. |
| <p>Provider owned or controlled residential settings: Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time.</p> | <p>ALF Level II Rules and Regulations 700.3.2</p> <ul style="list-style-type: none"> As part of the basic charge, each assisted living facility must make available food for three (3) balanced meals, as specified in Section 601.3 (a)(6), and make between-meal snacks available. Potable water and other drinking fluids shall be available at all times. Meals shall be served at approximately the same time each day. There shall be no more than five (5) hours between breakfast and lunch and no more than seven (7) hours between lunch and the evening meal. Variations from these stated parameters may be permitted at the written request of the resident or his or her responsible party or as directed by the resident's personal physician or advance practice nurse in writing. | Partially Compliant | <p>The state will review the ALF Level II Rules and Regulations to ensure that the facilities that receive HCBS funding will be compliant with the HCBS Settings rule. The DAAS Provider Certification Unit will monitor and ensure settings compliance for existing providers and any new providers.</p> <p>This requirement is being added to the Living Choices Assisted Living (LCAL) Provider Manual as a Provider Assurance. The LCAL provider manual is in the process of being promulgated with an effective date of October 1, 2016. HCBS settings policy has been incorporated into this manual. It will go to the Legislative Public Health and Rules and Regulations Committees for review and approval in September 2016. Once these rules are established in the provider manuals, certification procedures will be adjusted to comply with the new rules by July 1, 2017.</p> |
| <p>Provider owned or controlled residential settings: Individuals are able to have visitors of their choosing at any time.</p> | <p>ALF Level II Rules and Regulations 505</p> <ul style="list-style-type: none"> Permit unrestricted visiting hours. | Compliant | <p>This requirement is being added to the Living Choices Assisted Living (LCAL) Provider Manual as a Provider Assurance. The LCAL provider manual is in the process of being promulgated with an effective date of October 1, 2016. HCBS settings policy has been incorporated into this manual. It will go to the</p> |

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|---|--|------------------|--|
| | <p>ALF Level II Rules and Regulations 905</p> <ul style="list-style-type: none"> • Each apartment or unit shall be accessible to and useable by residents who use a wheelchair or other mobility aid consistent with the accessibility standards. • Keys, code or other opening devise for the door(s) to the assisted living facility shall be supplied to all residents without a credible diagnosis of dementia. | Compliant | comply with the new rules by July 1, 2017. |
| <p>Provider owned or controlled residential settings: Any modifications must be supported by a specified 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</p> | | Silent | <p>This requirement is being added to the Living Choices Assisted Living (LCAL) Provider Manual as a Provider Assurance. The LCAL provider manual is in the process of being promulgated with an effective date of October 1, 2016. HCBS settings policy has been incorporated into this manual. It will go to the Legislative Public Health and Rules and Regulations Committees for review and approval in September 2016. Once these rules are established in the provider manuals, certification procedures will be adjusted to comply with the new rules by July 1, 2017.</p> |

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|--|----------|------------------|------------------------|
| <p>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; and 8) include an assurance that interventions and supports will cause no harm to the individual.</p> | | | |

Summary of Assisted Living Facility Level II Policy Crosswalk

Upon review of the Ark. Code Ann. § 20-10-1701 through 20-10-1709, Arkansas Code Ann. § 20-10-1005, Rules and Regulations for Assisted Living Facilities Level II, the Living Choices Assisted Living Provider Manual, the AAS-9503 Living Choices Person-Centered Service Plan, and the RN Handbook (procedure manual), the following federal regulations are supported: setting is integrated in and supports access to the greater community; setting includes opportunities to engage in community life; setting includes opportunities to control personal resources; setting is selected by the individual from among setting options; setting facilitates individual choice regarding services and supports; residency agreement is in place that offers protections from eviction; setting offers privacy in sleeping or living unit; choice of roommate; freedom to furnish and decorate sleeping or living unit; and physically accessible setting.

Upon review of the Ark. Code Ann. § 20-10-1701 through 20-10-1709, Arkansas Code Ann. § 20-10-1005, Rules and Regulations for Assisted Living Facilities Level II, the Living Choices Assisted Living Provider Manual, the AAS-9503 Living Choices Person-Centered Service Plan, and the RN Handbook (procedure manual), the following federal regulations are partially supported: ensures rights to privacy, respect, and freedom from coercion and restraint; setting optimizes individual initiative, autonomy, and independence in making life choices; freedom and support to control own schedules and activities; and access to visitors.

Upon review of the Ark. Code Ann. § 20-10-1701 through 20-10-1709, Arkansas Code Ann. § 20-10-1005, Rules and Regulations for Assisted Living Facilities Level II, the Living Choices Assisted Living Provider Manual, the AAS-9503 Living Choices Person-Centered Service Plan, and the RN Handbook (procedure manual), the following federal regulations are not supported: opportunities to seek employment and work in competitive integrated settings and modifications supported by specific and justified need in person-centered service plan.

Note: This requirement is being added to the Living Choices Assisted Living (LCAL) Provider Manual as a Provider Assurance. The LCAL provider manual is in the process of being promulgated with an effective date of October 1, 2016. HCBS settings policy has been incorporated into this manual. It will go to the Legislative Public Health and Rules and Regulations Committees for review and approval in September 2016. Once these rules are established in the provider manuals, certification procedures will be adjusted to comply with the new rules by July 1, 2017. The state will review the ALF Level II Rules and Regulations to ensure that the facilities that receive HCBS funding will be compliant with the HCBS Settings rule. The DAAS Provider Certification Unit will monitor and ensure settings compliance for existing providers and any new providers.