

ISSUE DATE XX/XX/XXXX	EFFECTIVE DATE XX/XX/XXXX	NUMBER 00-21-XX
SUBJECT Room and Board Residency Agreements for Individuals with an Intellectual Disability or Autism		BY Kristin Ahrens, Deputy Secretary for Developmental Programs

SCOPE:

- Administrative Entity Administrators or Directors
- County Mental Health/Intellectual Disability Program Administrators or Directors
- Supports Coordination Organization Administrators or Directors
- Providers of Licensed and Unlicensed Residential Habilitation and Life Sharing services that receive Waiver-funding through the Consolidated, Community Living and Adult Autism Waiver
- Providers of Licensed and Unlicensed Residential Habilitation and Life Sharing services that receive base-funding
- Individuals and Families

PURPOSE:

The purpose of this bulletin is to provide clarification on the Room and Board policies and procedures for collecting and calculating room and board from individuals and for completing the Room and Board Residency Agreement.

The purpose of the Room and Board Residency Agreement is to represent a living arrangement agreement between the individual and the Residential Habilitation provider, Life Sharing provider, or Life Sharing host. In addition, the Room and Board Residency Agreement provides protection to the individual by requiring that the landlord, renter or leaseholder, or provider give notice to the individual before evicting the individual or terminating the agreement.

COMMENTS AND QUESTIONS REGARDING THIS BULLETIN SHOULD BE DIRECTED TO:

The appropriate ODP Regional Program Office

Visit the Office of Developmental Programs Web site at <https://www.dhs.pa.gov/contact/DHSOffices/Pages/ODP-Bureau%20for%20Supports%20for%20People%20with%20Intellectual%20Disabilities.aspx>

- The exception to this requirement is when the Life Sharing service is provided in the private home owned or rented by the individual and the Life Sharing host resides in the individual's home.
- Room and Board may not be collected for individuals who are receiving the Supported Living service.

BACKGROUND:

The promulgation of 55 Pa. Code Chapter 6100 regulations rescinded Chapters 51 and 6200 (relating to Office of Developmental Programs Home and Community-Based Services (HCBS) and room and board charges). Chapter 51 applied to waiver funded HCBS. Chapter 6200 applied to charging room and board for individuals living in residential facilities that receive State-only funding, which is also known as base-funding. The requirements in both chapters relating to room and board were similar, but there were different administrative procedures and therefore, Chapter 6100 regulations include the same room and board requirements for both waiver-funded HCBS and base-funded programs.

DISCUSSION:

As stated in 55 Pa. Code §6100.684, each time an individual signs a new Room and Board Residency Agreement, the provider must compute and document the actual costs of room and board. The provider must collect the room and board directly from the individual or the person designated, such as a representative payee, and keep documentation of the room and board costs. As defined in 55 Pa. Code §6100.3 a provider is the person, entity or agency that is contracted or authorized to deliver the service to the individual. This responsibility may not be delegated to another person, such as a Life Sharing host, or another organization.

Completing, Signing, and Retaining the Room and Board Residency Agreement

In accordance with §6100.687, the provider shall ensure that a Room and Board Residency Agreement form that is specified by the Department¹, is completed and signed by the individual annually or when there is a change in the individual's income that would affect the amount the individual would owe for room and board costs. When the form is completed annually, the dates of the signatures on the form must be within 12 months of the date the previous form was completed. The provider must use the DP 1077 and may not alter the form. In addition to the annual requirement, a new Room and Board Residency Agreement must be completed and signed:

- When there is a change of income.

¹Beginning July 1, 2021, the Room and Board Residency Agreement Form issued with this bulletin, DP 1077, must be completed for the individual's next annual due date or the next time there is a change in the individual's income. The current Room and Board Contract form, DP 1051, will continue to be accepted as current until the next annual due date or until a change requires that the new DP 1077 form is completed.

- Prior to an individual's admission to a residential service location.
- Prior to an individual's transfer from one residential service location or provider to another residential service location or provider.
- Within 15 days after an emergency residential placement.

Addendum agreements to the Room and Board Residency Agreement are not permitted. If a revision is needed, completion of a new Room and Board Residency Agreement is required. By completing a new agreement, changes can be easily identified, and it also establishes a new annual period for when a Room and Board Residency Agreement needs to be completed. A copy of the Room and Board Residency Agreement must be provided to ODP or its designee upon request.

All individuals and the appropriate representatives must receive notification that there will be a change in the room and board amount. Notification must be sent at least 15 days in advance of the change in the room and board amount. A new room and board agreement that reflects the new cost of room and board may not be effective until the first day of the following calendar month after the notification.

Appropriate signatures must be obtained on the Room and Board Residency Agreement. The Room and Residency Agreement Form must be signed by:

- A provider and a witness.
- The individual, or person signing on individual's behalf (include relationship to individual).
- The representative payee, if the individual is 18 years of age or older and has a representative payee for his or her benefits.
- The individual's court-appointed legal guardian if the individual is adjudicated incompetent to handle finances.

Note: The Social Security Administration appoints the representative payee. If the provider is designated as the representative payee, the provider may not charge a fee for managing the individual's finances or for serving as the representative payee, in accordance with §6100.694. Any concerns regarding representative payee responsibilities should be documented as such by the provider or Supports Coordination Organization and the Social Security Administration should be contacted.

A copy of the completed and signed Room and Board Residency Agreement will be given to the individual, the representative payee or, if applicable, the court-appointed legal guardian, in accordance with §6100.689. A copy of the completed and signed Room and Board Residency Agreement needs to be maintained in the individual's record. A provider shall cooperate with monitoring of requirements (such as the Quality, Assessment and Improvement process or licensing reviews, etc.) relating to room and board conducted by the Department or the Department's designee.

Room and Board Rate

In accordance with 55 Pa. Code §6100.686, the provider may not charge the individual in excess of 72% of the Supplemental Security Income (SSI) maximum rate plus the Pennsylvania (PA) supplement² even if the actual cost of room and board exceeds that amount. This requirement applies even if an individual has earned wages, personal income from inheritance, Social Security or other types of income along with SSI.

Actual room and board costs are cited in §6100.684. To calculate the actual room and board costs the provider:

- 1) Identifies all applicable actual costs (see below for more info.)
- 2) Divides actual cost amount by twelve months, then;
- 3) Divides that amount by the number of people residing in the home.

Documentation of the actual costs is maintained by the provider and includes the following:

- Actual costs for room are determined by using the items described in the section below titled “*Items Included in Room and Board Costs*” with the exception of cost of food and beverages.
- Actual costs for board are the cost of food and beverages.

In accordance with §6100.685, the provider must deduct the value of benefits, such as energy assistance (known as Low-Income Energy Assistance Program (LIHEAP)), rent rebates, food and nutrition assistance (such as Supplemental Nutrition Assistance Program (SNAP) benefits)) or similar benefits, from the actual room and board costs. The provider also may not use the value of these benefits to increase an individual’s share of room and board costs above the cost of room and board. The provider is also responsible for assisting the individual in applying for these benefits or similar benefits.

Examples:

- \$50 a month in SNAP benefits is received. When the provider is calculating the individual’s room and board charges, the provider must subtract the amount of the benefit from the actual, calculated cost of room and board.
- \$50 in SNAP benefits and \$100 in LIHEAP are received. When the provider is calculating the individual’s room and board charges, the provider must subtract the amount of the benefits from the actual calculated cost of room and board.

An individual or individuals collectively may apply for benefits such as SNAP benefit, the rent rebate, LIHEAP³, or any similar benefit. Individual(s) who do not pay room or board to the

² The Pennsylvania supplement is an extra, or supplemental, payment to individuals who live in the state. Pennsylvania supplements the federal SSI benefit.

³ 3 There are policy handbooks and manuals that provide information about SNAP or LIHEAP benefits, this information is available to the public for viewing and can be found on the DHS website. The local County Assistance Office may also be contacted. ODP issued communication 015-12, Use of Supplemental Nutrition Assistance Program (SNAP) for Individuals Residing in Group Living Arrangements (GLAs).

provider or individually receive these benefits (the individual is not receiving collective benefits with household members), that benefit amount goes directly to the individual, representative payee, or court-appointed legal guardian.

Items Included in Room and Board Costs

Items that are included as room and board costs as defined in §6100.684(d). The individual must be offered choice based on the individual's preferences and interest regarding the types of the following items included in room and board:

- Standard (everyday life products) toiletries, towels, and bedding. Some example of toiletries are items that are used while taking care of one's body such as soap, shampoo, deodorant, and toothbrush and toothpaste. Towels could include standard bath towels and washcloths. Bedding could include standard pillow cases, sheets, and blankets. Please see paragraph below about if the individual wants to buy a specific more expensive item.
 - For example, an individual may choose a certain color/pattern of bedding, a certain fragrance of shampoo, or a brand of soap that may not be the same as his or housemates.
- Access in the home to one telephone with local telephone service.
- Internet service.
 - The individual may not be charged extra for the internet in their home as this is part of the room and board charges. Payment for internet service to the host home as part of the Life Sharing contract will include this as a room and board cost. If more than one individual lives at the service location, a separate internet service for each individual is not expected.
- Cleaning products that are used as part of everyday cleaning such as a vacuum, a broom, bleach, Windex, sanitizer, etc.
- Household furniture includes but not limited to (please reference 55 Pa. Code Chapters 6400 and 6500):
 - Items that are clean, sturdy, and not hazardous,
 - Appropriate for age and size of the individuals, comfortable and home-like, family room furniture and a dining table and chairs that can seat all individuals at the same time.
 - For individual bedrooms – a chest of drawers, a closet or wardrobe space that has clothing racks and shelves that is in reach for the individual to use.
- Food choices of the individual including the individual's preference, culture, religion and beliefs, and an individual's prescribed diet if the prescribed diet is not covered by the individual's health care plan or another funding source. Please reference paragraph below if the individual wants to buy a specialty item. Examples include, but are not limited to:
 - Prescribed dietary items necessary for individuals' basic health and nutrition include but are not limited to:

- Products used to thicken liquids/foods,
 - Phenylketonuria (PKU) diet foods,
 - Meal replacement shakes and snacks
 - Diabetic diet foods
- Food choices of the individual may include food outside of breakfast, lunch, and dinner as well as beverages.
- Laundry of towels, bedding and the individual's clothing.
 - This includes the individual's preferences of laundry detergent, dryer sheets, etc. and the act of washing and drying the laundry.
- Lawn care, food preparation, maintenance, and housekeeping, including staff wages and benefits to perform these tasks.
- A meal that is not prepared at the residential service location that is requested and arranged by staff in lieu of meals provided in the residential service location.
 - This applies to meals that are eaten away from the individual's home such as at a restaurant or if a meal is delivered to the home such as buying take-out. The intent of this regulation is to ensure that the individual is not required to spend his or her personal funds for a meal when staff choose to not provide a meal with food that is available at the home. This should not be interpreted to mean that an individual cannot pay for their meal when it is a personal choice such as choosing to dine away from the home, ordering a meal to his/her home, buying food for special occasions, or how to spend their money while in the community.
- Incontinence products, such as briefs or pads, if the incontinence product is not covered by the individual's health care plan or another funding source.
- Building and equipment repair, renovation and depreciation.
- Rent, taxes, utilities and property insurance.

Individuals have the right to use personal funds to purchase their own more expensive items such as designer brand sheets, a specific brand of shampoo that costs more than the standard shampoo, their own personal furniture such as a lazy-boy recliner chair, or food that is not the provider's responsibility such as extra snacks or beverages (outside of what is provided by the provider), such as soda, alcohol, sparkling water, energy drinks, or an extra snack such as a specialty made food item, etc. Items that are purchased using an individual's personal funds are for the individual's use and belong to the individual. These items must be documented for reasons such as if the individual moves to ensure he/she retain their personal items.

The individual support plan (ISP) team will need to discuss any issues or concerns related to room and board costs. Items included as part of the room and board costs may not be authorized in the ISP as a service and support. If there is a discrepancy among ISP team members about the items that are included as room and board costs, the ISP team needs to have a discussion in attempt to resolve the concern. The ISP team may seek assistance from the Administrative Entity, county MH/ID program, or the Bureau of Supports for Autism and Special Populations if the individual is receiving services through AAW, if the concern cannot be resolved within the ISP team. When a concern or risk is identified, the ISP team needs to

mitigate risk or prevent the reoccurrence. Further, issues identified with room and board costs may require an incident report to be filed in accordance, with ODP's incident management policy. In addition, if a provider is noncompliant with the provision of one of these items or in the calculation and collecting of room and board charges, the provider must take corrective action. ODP may also address the noncompliance through the issuance of a corrective action plan.

SSI

The provider must assist an individual to apply for SSI if he or she is not currently receiving this income as stated in §6100.682. If an individual is denied SSI benefits, the provider must assist the individual in filing an appeal. In addition, the provider will assist the individual with securing information regarding continued eligibility for SSI. The provider must keep documentation of the individual's application for SSI benefits, the SSI eligibility determination and, if applicable, the appeal if one was filed. Although the provider is not required to hire an attorney on behalf of the individual to request an appeal, the provider must assist the individual with contacting the local Social Security office, which has a list of organizations that can help find a representative to assist the individual.

Delay in Income

In accordance with §6100.693, if a portion or all of the individual's income is not received for a month or more, the individual, the individual's designated person or the court-appointed legal guardian, needs to be informed in writing that until the individual's income is received, payment is not required or only a negotiated amount of room and board payments will be required. Once the individual has received the delayed income, the provider can collect the amount of room and board charges that were incurred during the period the individual did not receive income. This amount would be based on room and board costs owed. If the individual did not make payment for any room and board costs, the calculation is completed by using the monthly actual cost of room and board or 72% of the SSI maximum rate plus the Pennsylvania supplement multiplied by the number of months that the full room and board amount was not paid. If the individual paid a negotiated amount, that paid amount needs to be applied and the individual must only be charged the difference owed. The provider should keep documentation of how the room and board was calculated.

Even though an individual is responsible for room and board charges, an individual must be guaranteed at least the monthly amount as established by the Social Security Administration related to the specific type of residential setting, for the individual's personal needs allowance.

Modifications to Room and Board Agreement & Charges

In accordance with 55 Pa Code Chapter 6100 regulations, the individual's share of room or board costs may be modified as described in the bullets below. When a modification is made to the Room and Board, documentation must be kept.

- Referenced in §6100.688(a) if the individual pays rent directly to a landlord, but food is supplied through a provider, the *room* provisions must be deleted from the room and board agreement and only the *board* costs will be entered onto the agreement. The individual will pay 32% of the SSI maximum rate plus the Pennsylvania supplement for the individual's *board*. If an individual is receiving less than the SSI maximum rate, the provider will charge 32% of the individual's available monthly income as the individual's monthly *board* costs.
- Referenced in §6100.688(b) if an individual pays rent to a provider, but the individual purchases his or her own food, the *board* provisions must be deleted from the room and board agreement and only the "room" costs will be entered onto the agreement. The individual will pay 40% of the SSI maximum rate plus the Pennsylvania supplement. If individual is receiving less than the SSI maximum rate, the provider will charge 40% of the individual's available monthly income as the monthly room costs.
 - In circumstances when an individual is purchasing several of his or her meals throughout the week and on a consistent basis, the provider needs to assess if this situation meets the criteria for charging only 40% of the individual's available monthly income as the monthly room costs. In addition, the provider needs to have a discussion with the individual about why the situation is occurring. If the provider is currently charging or wants to charge 72% for room and board, the provider can make accommodations by purchasing food that meets the individual's preferences and needs.
- In accordance with §6100.692, if an individual does not take food by mouth, there must not be a charge for "board" to the individual.⁴
- In accordance with §6100.690, a provider may not charge room or board to the individual who is receiving respite services.
- In accordance with §6100.686(a)(2), when an individual is paying "board" costs, the provider must pay the individual back (prorate) the board costs after an individual is on leave from the residence for a consecutive period of 8 days or more. This proration may occur monthly, quarterly, or semiannually as long as there is a record of the board costs that were returned to the individual.
 - For example, if an individual is out of the residential home for 15 consecutive days, the provider may collect *board* costs from the individual on day 1 through 8. Starting on the 9th day through the 15th day, *board* costs may not be collected from the individual, or if they were, must be paid back to the individual. The provider must keep documentation of how this was calculated.
- In accordance with §6100.691, a provider may not charge room or board to the individual who is hospitalized or is in a rehabilitation facility for more than 30 consecutive days. Settings which are considered hospital or rehabilitation care include medical and psychiatric hospital settings, rehabilitation care programs, and nursing

⁴ Providers may explore other possible funding sources such as Medicaid, Medicare or other third-party resources that may be able to assist with payment for services related to this need.

homes. The provider must also not charge for room and board after 30 consecutive days for therapeutic leave.

- For example, if an individual is out of the home due to hospitalization, during the first 30 consecutive days the provider may collect room and board. Once that individual is hospitalized starting on the 31st day, room and board may not be collected from the individual.

Note: If an unexpected circumstance occurs, such as an individual moving immediately from the home or an unexpected death, the provider may not charge room or board starting the day after the circumstance occurred.

- In accordance with §6100.694, the provider may not charge a fee for managing the individual's finances or for serving as the individual's designated financial representative.
 - For example, if an individual is receiving services from a Life Sharing provider and that same Life Sharing provider is managing the individual's finances or serving as their representative payee, that Life Sharing provider may not charge a fee for managing the individual's finances.

OBSOLETE DOCUMENTS:

BAW 17-12-Residential Habilitation Room and Board Contracts

ODP Communication 049-10-Individual Purchases and Item Storage