

**WAC 388-107-0190 Rights of residents.** (1) Each resident of an enhanced services facility is entitled to all the rights set forth in this chapter and chapters 71.05 and 70.96A RCW, and retains all rights not denied him or her under these chapters.

(2) The enhanced services facility may only consider a resident's competence as determined or withdrawn under the provisions of chapters 10.77 or 11.88 RCW.

(3) The facility must give each resident, at the time of his or her person-centered service planning meeting, a written statement setting forth the substance of this section.

(4) Every resident of an enhanced services facility has the right to appropriate care and individualized treatment, interventions, and support that will not harm the resident.

(5) The provisions of this chapter must not be construed to deny to any resident treatment by spiritual means through prayer in accordance with the tenets and practices of a church or religious denomination.

(6) In addition to other rights not specifically withheld by law, each resident of an enhanced services facility has the rights enumerated in subsections (6)(a) through (6)(o) of this section unless the exercise of which creates a danger to the resident or others. The facility must prominently post a list in a place accessible to residents of the rights enumerated in subsections (6)(a) through (6)(o) of this section and make the list readily available to residents. The resident has the right to:

(a) Wear his or her own clothes and keep and use his or her personal possessions;

(b) Have access to fluids and snacks of his or her choice at any time;

(c) Control his or her personal finances;

(d) Have access to individual locked storage space for his or her private use;

(e) Have visitors at times convenient to the resident and in accordance with his or her person-centered service plan;

(f) Have twenty-four hour access to a telephone to make and receive confidential calls;

(g) Have ready access to letter-writing materials, including stamps and send and receive uncensored correspondence through the mail;

(h) Discuss and actively participate in the development of his or her person-centered service plan and decisions with professional persons;

(i) A clean and comfortable home environment;

(j) Furnish and decorate his or her sleeping room in accordance with his or her person-centered service plan.

(k) Not have psychosurgery performed on him or her under any circumstances;

(l) Refuse antipsychotic medication consistent with RCW 70.97.050;

(m) Dispose of property and sign contracts unless the resident has been found incompetent in a court proceeding regarding that issue; and

(n) Complain about right violations or conditions at the enhanced services facility and request the assistance of an ombuds, disability rights Washington representative, or another representative of the resident's choice without interference from the enhanced services facility; and

(o) Receive a minimum of thirty days written notice if there are any changes to the scope of services identified in the resident's person-centered service plan.

(7) A modification of the resident rights described in 42 C.F.R. Sec. 441.301 (c)(4)(vi)(A) through (D) may only be made based upon a resident's specific assessed need that is determined following a person-centered service planning team review. The rights to which this requirement applies include, but are not limited to, the following: a legally enforceable agreement that includes protections from eviction; privacy in the resident's sleeping or living unit; freedom to control his or her own schedules and activities; access to food at any time; and access to have visitors at any time. The team review required under this subsection must be conducted and documented in accordance with the following:

(a) The resident's specific individualized assessed need;

(b) The positive interventions and supports used prior to any modification;

(c) Less intrusive methods of meeting the needs that have been tried but did not work;

(d) A clear description of the condition that is directly related to the resident's specific assessed need;

(e) Regular collection and review of data to measure the ongoing effectiveness of the modification;

(f) Established time limits for periodic reviews to determine if the modification is still necessary or can be terminated;

(g) The resident's or resident's representative's informed consent for the modification; and

(h) An assurance that interventions and supports will cause no harm to the resident.

(8) Nothing contained in this chapter may prohibit a resident, resident's representative, or both from petitioning by writ of habeas corpus for release.

(9) Nothing in this section permits any person to knowingly violate a no-contact order, condition of an active judgment and sentence, or active supervision by the department of corrections.

(10) A resident has the right to refuse placement in an enhanced services facility. No person may be denied other department services solely on the grounds that he or she refused placement in an enhanced services facility.

(11) A resident has the right to appeal the department's decision that he or she is eligible for placement at an enhanced services facility. The department must give the resident notice of his or her right in a format accessible to the resident with instructions on how to appeal.

[Statutory Authority: RCW 70.97.230 and HCBS Final Rule 42 C.F.R. WSR 16-14-078, § 388-107-0190, filed 7/1/16, effective 8/1/16. Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0190, filed 9/12/14, effective 10/13/14.]