

Is this limitation being imposed beyond what a peer without disabilities would experience in this situation?

Yes
If Yes, answer the questions below
Proceed to the subsequent question ONLY if the previous question has been answered "Yes".

No

Not a restriction

Is there a specific and assessed individualized need?

Were positive interventions and supports tried?

Were less intrusive methods tried, but did not work?

Is there a clear description of the condition that directly relates to the assessed need?

Will data be regularly collected and reviewed to measure effectiveness?

Will the intervention be regularly reassessed to determine continued need?

Has the participant given Informed consent?

Has it been determined that the intervention will cause no harm?

Rights Restriction Decision Tree
This tool is intended to promote a team discussion regarding individual rights and to assure due process



If a rights restriction exists and if all questions under the "Yes" column have been answered in the affirmative, then interventions can be put into place for the health and safety of the participant. The restriction must be reviewed by the Human Rights Committee and be documented in the Individualized Support Plan (ISP).

Rights Restrictions

This document is intended to be used as a tool to determine the appropriate steps that need to occur prior to implementing a rights restriction to ensure compliance with the Home and Community Based Services (HCBS) Settings Rule. To learn more about the key concept areas of the HCBS Settings Rule and the protections that it affords to participants, please refer to the HCBS Settings Guide to Expectations and Compliance. This tool intends to guide a participant's support team through the required steps prior to restricting an individual's rights. If "yes" is answered to the first question, all of the subsequent questions must be answered in the affirmative and documented in the participant's ISP prior to the restriction being implemented. The following topic areas provide a brief overview of the rights restriction requirements:

Documentation required to implement a rights restriction

The participant's ISP must reflect any restrictions that are imposed for the assurance of the participant's health and safety, including a plan for restoring the participant's rights. Additionally, documentation of the following must be included:

A specific and individualized assessed need.

Documentation must clearly indicate that the assessed severity of the behavior or need justifies the implementation of restrictive procedure.

The positive interventions and supports used prior to any modifications to the ISP.

Documentation must include a clear timeline of when the positive interventions and supports were in place.

Less intrusive methods of meeting the need that have been tried but did not work.

Documentation must include a clear timeline of when the less restrictive measures were in place.

A clear description of the condition that is directly proportional to the specific assessed need.

Documentation must include a description of the condition leading to the restriction (the stated need and support need to align).

A regular collection and review of data to measure the ongoing effectiveness of the modification.

Documentation must include the process for collecting data on the restriction and include a clear plan for regularly reviewing the data to ensure the efficacy of the restriction.

Established time limits for periodic reviews to determine if the modification is still necessary or can be terminated.

Documentation must demonstrate that the restriction will be time-limited and have a reasonable and attainable restoration plan for a participant to regain his or her rights.

Informed consent of the individual.

Documentation must demonstrate that the participant has provided his or her informed consent (South Dakota Codified Law (SDCL) 27B-1-17 defines informed consent). If there is a guardian, the ISP team must refer to the court order to determine if the guardian has the authority to make decisions on behalf of the participant.

An assurance that interventions and supports will cause no harm to the individual.

Documentation must include assurances that the participant will be free from physical harm, psychological harm, social risk, or seclusion.