

## Final Proposed Filing - Coversheet

### **Instructions:**

In accordance with Title 3 Chapter 25 of the Vermont Statutes Annotated and the “Rule on Rulemaking” adopted by the Office of the Secretary of State, this filing will be considered complete upon filing and acceptance of these forms with the Office of the Secretary of State, and the Legislative Committee on Administrative Rules.

All forms shall be submitted at the Office of the Secretary of State, no later than 3:30 pm on the last scheduled day of the work week.

The data provided in text areas of these forms will be used to generate a notice of rulemaking in the portal of “Proposed Rule Postings” online, and the newspapers of record if the rule is marked for publication. Publication of notices will be charged back to the promulgating agency.

**PLEASE REMOVE ANY COVERSHEET OR FORM NOT  
REQUIRED WITH THE CURRENT FILING BEFORE DELIVERY!**

**Certification Statement:** As the adopting Authority of this rule (see 3 V.S.A. § 801 (b) (11) for a definition), I approve the contents of this filing entitled:

**Person-Centered Planning - Home and Community-Based  
Services**

/s/ Kristin L. McClure \_\_\_\_\_, on 4/14/25  
(signature) (date)

Printed Name and Title:

Kristin McClure, Deputy Secretary, Agency of Human  
Services

RECEIVED BY: \_\_\_\_\_

- ☐ Coversheet
- ☐ Adopting Page
- ☐ Economic Impact Analysis
- ☐ Environmental Impact Analysis
- ☐ Strategy for Maximizing Public Input
- ☐ Scientific Information Statement (if applicable)
- ☐ Incorporated by Reference Statement (if applicable)
- ☐ Clean text of the rule (Amended text without annotation)
- ☐ Annotated text (Clearly marking changes from previous rule)
- ☐ ICAR Minutes
- ☐ Copy of Comments
- ☐ Responsiveness Summary



STATE OF VERMONT  
AGENCY OF HUMAN SERVICES

MEMORANDUM

**TO:** Sarah Copeland Hanzas, Secretary of State

**FROM:** Jenney Samuelson, Secretary, Agency of Human Services

A handwritten signature in blue ink, appearing to be 'Jenney Samuelson', written over the 'FROM' line.

**DATE:** November 21, 2024

**SUBJECT:** Signatory Authority for Purposes of Authorizing Administrative Rules

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I hereby designate Kristin McClure, Deputy Secretary, Agency of Human Services as signatory to fulfill the duties of the Secretary of the Agency of Human Services as the adopting authority for administrative rules as required by Vermont's Administrative Procedures Act, 3. V.S.A § 801 et seq.

CC: KristinMcClure@vermont.gov

1. TITLE OF RULE FILING:

**Person-Centered Planning - Home and Community-Based Services**

2. PROPOSED NUMBER ASSIGNED BY THE SECRETARY OF STATE

24P048

3. ADOPTING AGENCY:

Agency of Human Services (AHS)

4. PRIMARY CONTACT PERSON:

*(A PERSON WHO IS ABLE TO ANSWER QUESTIONS ABOUT THE CONTENT OF THE RULE).*

Name: Ashley Berliner

Agency: Agency of Human Services

Mailing Address: 280 State Drive, Center Building,  
Waterbury, Vermont 05671

Telephone: 802-578-9035 Fax: 802-241-0450

E-Mail: AHS.MedicaidPolicy@vermont.gov

Web URL *(WHERE THE RULE WILL BE POSTED)*:

<https://humanservices.vermont.gov/rules-policies/health-care-rules/health-care-administrative-rules-hcar/proposed-rule>

5. SECONDARY CONTACT PERSON:

*(A SPECIFIC PERSON FROM WHOM COPIES OF FILINGS MAY BE REQUESTED OR WHO MAY ANSWER QUESTIONS ABOUT FORMS SUBMITTED FOR FILING IF DIFFERENT FROM THE PRIMARY CONTACT PERSON).*

Name: Conor O'Dea

Agency: Agency of Human Services

Mailing Address: 280 State Drive, Center Building,  
Waterbury, Vermont 05671

Telephone: 802-798-9890 Fax: 802-241-0450

E-Mail: conor.odea@vermont.gov

6. RECORDS EXEMPTION INCLUDED WITHIN RULE:

*(DOES THE RULE CONTAIN ANY PROVISION DESIGNATING INFORMATION AS CONFIDENTIAL; LIMITING ITS PUBLIC RELEASE; OR OTHERWISE, EXEMPTING IT FROM INSPECTION AND COPYING?)* No

IF YES, CITE THE STATUTORY AUTHORITY FOR THE EXEMPTION:

Not applicable

PLEASE SUMMARIZE THE REASON FOR THE EXEMPTION:

Not applicable

7. LEGAL AUTHORITY / ENABLING LEGISLATION:

*(THE SPECIFIC STATUTORY OR LEGAL CITATION FROM SESSION LAW INDICATING WHO THE ADOPTING ENTITY IS AND THUS WHO THE SIGNATORY SHOULD BE. THIS SHOULD BE A SPECIFIC CITATION NOT A CHAPTER CITATION).*

3 V.S.A. § 801(b) (11); 33 V.S.A. § 1901(a) (1)

8. EXPLANATION OF HOW THE RULE IS WITHIN THE AUTHORITY OF THE AGENCY:

AHS' authority to adopt rules is identified above. The statutes designate AHS as the adopting authority for administrative procedures and grant rulemaking authority for the administration of Vermont's medical assistance programs under Title XIX (Medicaid) of the Social Security Act.

9. THE FILING HAS NOT CHANGED SINCE THE FILING OF THE PROPOSED RULE.

10. THE AGENCY HAS NOT INCLUDED WITH THIS FILING A LETTER EXPLAINING IN DETAIL WHAT CHANGES WERE MADE, CITING CHAPTER AND SECTION WHERE APPLICABLE.

11. SUBSTANTIAL ARGUMENTS AND CONSIDERATIONS WERE NOT RAISED FOR OR AGAINST THE ORIGINAL PROPOSAL.

12. THE AGENCY HAS INCLUDED COPIES OF ALL WRITTEN SUBMISSIONS AND SYNOPSES OF ORAL COMMENTS RECEIVED.

13. THE AGENCY HAS INCLUDED A LETTER EXPLAINING IN DETAIL THE REASONS FOR THE AGENCY'S DECISION TO REJECT OR ADOPT THEM.

14. CONCISE SUMMARY (150 WORDS OR LESS):

This proposed rulemaking aligns with federal regulation for person-centered planning in delivering home and community-based services under the Global Commitment to Health Waiver, approved by CMS. The proposed rule establishes the requirements for the planning process, service plans, annual reviews, and the required documentation for modifications to the additional qualities of a home and community-based setting.

15. EXPLANATION OF WHY THE RULE IS NECESSARY:

The proposed rule aligns with person-centered planning regulations mandated by CMS under 42 CFR § 441.301(c), placing individuals at the forefront of service

planning and outlining essential service plan requirements.

**16. EXPLANATION OF HOW THE RULE IS NOT ARBITRARY:**

The proposed rule aligns with federal regulation 42 § CFR 441.301(c), thus ensuring its non-arbitrary nature and regulatory compliance.

**17. LIST OF PEOPLE, ENTERPRISES AND GOVERNMENT ENTITIES AFFECTED BY THIS RULE:**

HCBS Medicaid Beneficiaries, Agency of Human Services and its Departments and Community-Based organizations.

**18. BRIEF SUMMARY OF ECONOMIC IMPACT (150 WORDS OR LESS):**

There is a one-time investment of \$200,000 for trainings regarding HCBS. A portion of the investment will be used to train on Person-Centered Planning best practices and standards. This rule does not increase or reduce the economic burden on any individual or entity, nor does it impact the State's gross annualized budget. The investment in training ensures compliance with the new rule and federal laws.

**19. A HEARING WAS HELD.**

**20. HEARING INFORMATION**

(THE FIRST HEARING SHALL BE NO SOONER THAN 30 DAYS FOLLOWING THE POSTING OF NOTICES ONLINE).

IF THIS FORM IS INSUFFICIENT TO LIST THE INFORMATION FOR EACH HEARING, PLEASE ATTACH A SEPARATE SHEET TO COMPLETE THE HEARING INFORMATION.

Date: 1/10/2025

Time: 11:00 AM

Street Address: Virtual Hearing only - Phone or Microsoft Teams call in 802-828-7667, Phone conference ID: 97680834#; Teams link and information will be posted in the Global Commitment Register online as well.

Zip Code:

URL for Virtual: [https://teams.microsoft.com/l/meetup-join/19%3ameeting\\_NjgzNWVlYWQtNmE2My00MWZiLTk5MDUtMDU3MWUyZmQwMDFl%40thread.v2/0?context=%7b%22Tid%22%3a%2220b4933b-baad-433c-9c02-70edcc7559c6%22%2c%22Oid%22%3a%228eef990f-2b53-4e10-](https://teams.microsoft.com/l/meetup-join/19%3ameeting_NjgzNWVlYWQtNmE2My00MWZiLTk5MDUtMDU3MWUyZmQwMDFl%40thread.v2/0?context=%7b%22Tid%22%3a%2220b4933b-baad-433c-9c02-70edcc7559c6%22%2c%22Oid%22%3a%228eef990f-2b53-4e10-)

8ca8-0163d84110f0%22%7d

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Date:

Time: AM

Street Address:

Zip Code:

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Zip Code:

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Date:

Time: AM

Street Address:

Zip Code:

URL for Virtual:

**21. DEADLINE FOR COMMENT (NO EARLIER THAN 7 DAYS FOLLOWING LAST HEARING):**

1/17/2025

**KEYWORDS (PLEASE PROVIDE AT LEAST 3 KEYWORDS OR PHRASES TO AID IN THE SEARCHABILITY OF THE RULE NOTICE ONLINE).**

Medicaid

HCBS

Home-and Community-Based Services

Global Commitment

Person-Centered Planning

Case Management

Plan of Care

## Adopting Page

### **Instructions:**

This form must accompany each filing made during the rulemaking process:

Note: To satisfy the requirement for an annotated text, an agency must submit the entire rule in annotated form with proposed and final proposed filings. Filing an annotated paragraph or page of a larger rule is not sufficient. Annotation must clearly show the changes to the rule.

When possible, the agency shall file the annotated text, using the appropriate page or pages from the Code of Vermont Rules as a basis for the annotated version. New rules need not be accompanied by an annotated text.

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1. TITLE OF RULE FILING:

**Person-Centered Planning - Home and Community-Based Services**

2. ADOPTING AGENCY:

Agency of Human Services (AHS)

3. TYPE OF FILING (*PLEASE CHOOSE THE TYPE OF FILING FROM THE DROPDOWN MENU BASED ON THE DEFINITIONS PROVIDED BELOW*):

- **AMENDMENT** - Any change to an already existing rule, even if it is a complete rewrite of the rule, it is considered an amendment if the rule is replaced with other text.
- **NEW RULE** - A rule that did not previously exist even under a different name.
- **REPEAL** - The removal of a rule in its entirety, without replacing it with other text.

This filing is **A NEW RULE** .

4. LAST ADOPTED (*PLEASE PROVIDE THE SOS LOG#, TITLE AND EFFECTIVE DATE OF THE LAST ADOPTION FOR THE EXISTING RULE*):

N/A

## Economic Impact Analysis

### **Instructions:**

In completing the economic impact analysis, an agency analyzes and evaluates the anticipated costs and benefits to be expected from adoption of the rule; estimates the costs and benefits for each category of people enterprises and government entities affected by the rule; compares alternatives to adopting the rule; and explains their analysis concluding that rulemaking is the most appropriate method of achieving the regulatory purpose. If no impacts are anticipated, please specify “No impact anticipated” in the field.

Rules affecting or regulating schools or school districts must include cost implications to local school districts and taxpayers in the impact statement, a clear statement of associated costs, and consideration of alternatives to the rule to reduce or ameliorate costs to local school districts while still achieving the objectives of the rule (see 3 V.S.A. § 832b for details).

Rules affecting small businesses (excluding impacts incidental to the purchase and payment of goods and services by the State or an agency thereof), must include ways that a business can reduce the cost or burden of compliance or an explanation of why the agency determines that such evaluation isn’t appropriate, and an evaluation of creative, innovative or flexible methods of compliance that would not significantly impair the effectiveness of the rule or increase the risk to the health, safety, or welfare of the public or those affected by the rule.

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#### 1. TITLE OF RULE FILING:

**Person-Centered Planning - Home and Community-Based Services**

#### 2. ADOPTING AGENCY:

Agency of Human Services (AHS)

#### 3. CATEGORY OF AFFECTED PARTIES:

*LIST CATEGORIES OF PEOPLE, ENTERPRISES, AND GOVERNMENTAL ENTITIES POTENTIALLY AFFECTED BY THE ADOPTION OF THIS RULE AND THE ESTIMATED COSTS AND BENEFITS ANTICIPATED:*

The categories of people, enterprises, and governmental entities potentially affected by the adoption of this rule:

HCBS Medicaid Beneficiaries, Agency of Human Services and its Departments and Community-Based organizations.



Anticipated costs and benefits of this rule:

There is a one-time investment of \$200,000 for trainings regarding HCBS. A portion of the investment will be used to train on Person-Centered Planning best practices and standards. This rule does not increase or reduce the economic burden on any individual or entity, nor does it impact the State's gross annualized budget. The investment in training ensures compliance with the new rule and federal laws.

The person-centered planning rule aims to enhance the effectiveness and responsiveness of Medicaid HCBS programs, ultimately leading to improved health outcomes and more fulfilling lives for the individuals enrolled in these programs. These requirements mandate that person-centered planning culminate in a personalized service plan tailored to the individual's goals and preferences. Fundamentally, a service plan addresses a participant's medical and personal care needs, Home and Community-Based Services (HCBS) type and frequency, and treatment goals and outcomes. Person-centered planning extends beyond this by incorporating the participant's strengths, values, preferences, and future aspirations.

**4. IMPACT ON SCHOOLS:**

*INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON PUBLIC EDUCATION, PUBLIC SCHOOLS, LOCAL SCHOOL DISTRICTS AND/OR TAXPAYERS CLEARLY STATING ANY ASSOCIATED COSTS:*

No impact anticipated

**5. ALTERNATIVES: CONSIDERATION OF ALTERNATIVES TO THE RULE TO REDUCE OR AMELIORATE COSTS TO LOCAL SCHOOL DISTRICTS WHILE STILL ACHIEVING THE OBJECTIVE OF THE RULE.**

Not applicable

**6. IMPACT ON SMALL BUSINESSES:**

*INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON SMALL BUSINESSES (EXCLUDING IMPACTS INCIDENTAL TO THE PURCHASE AND PAYMENT OF GOODS AND SERVICES BY THE STATE OR AN AGENCY THEREOF):*

No impact anticipated

7. **SMALL BUSINESS COMPLIANCE:** *EXPLAIN WAYS A BUSINESS CAN REDUCE THE COST/BURDEN OF COMPLIANCE OR AN EXPLANATION OF WHY THE AGENCY DETERMINES THAT SUCH EVALUATION ISN'T APPROPRIATE.*

Not applicable

8. **COMPARISON:**

*COMPARE THE IMPACT OF THE RULE WITH THE ECONOMIC IMPACT OF OTHER ALTERNATIVES TO THE RULE, INCLUDING NO RULE ON THE SUBJECT OR A RULE HAVING SEPARATE REQUIREMENTS FOR SMALL BUSINESS:*

There are no alternatives to the adoption of this rule.  
The rule is required to implement federal law.

9. **SUFFICIENCY:** *DESCRIBE HOW THE ANALYSIS WAS CONDUCTED, IDENTIFYING RELEVANT INTERNAL AND/OR EXTERNAL SOURCES OF INFORMATION USED.*

There are no alternatives to the adoption of this rule;  
it is necessary to ensure federal alignment with the  
federal law on person-centered planning in Medicaid  
funded Home-and Community-Based Services.

## Environmental Impact Analysis

### **Instructions:**

In completing the environmental impact analysis, an agency analyzes and evaluates the anticipated environmental impacts (positive or negative) to be expected from adoption of the rule; compares alternatives to adopting the rule; explains the sufficiency of the environmental impact analysis. If no impacts are anticipated, please specify “No impact anticipated” in the field.

Examples of Environmental Impacts include but are not limited to:

- Impacts on the emission of greenhouse gases
- Impacts on the discharge of pollutants to water
- Impacts on the arability of land
- Impacts on the climate
- Impacts on the flow of water
- Impacts on recreation
- Or other environmental impacts

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#### 1. TITLE OF RULE FILING:

**Person-Centered Planning - Home and Community-Based Services**

#### 2. ADOPTING AGENCY:

Agency of Human Services (AHS)

#### 3. GREENHOUSE GAS: *EXPLAIN HOW THE RULE IMPACTS THE EMISSION OF GREENHOUSE GASES (E.G. TRANSPORTATION OF PEOPLE OR GOODS; BUILDING INFRASTRUCTURE; LAND USE AND DEVELOPMENT, WASTE GENERATION, ETC.):*

No impact anticipated

#### 4. WATER: *EXPLAIN HOW THE RULE IMPACTS WATER (E.G. DISCHARGE / ELIMINATION OF POLLUTION INTO VERMONT WATERS, THE FLOW OF WATER IN THE STATE, WATER QUALITY ETC.):*

No impact anticipated

#### 5. LAND: *EXPLAIN HOW THE RULE IMPACTS LAND (E.G. IMPACTS ON FORESTRY, AGRICULTURE ETC.):*

No impact anticipated

6. **RECREATION:** *EXPLAIN HOW THE RULE IMPACTS RECREATION IN THE STATE:*  
No impact anticipated
7. **CLIMATE:** *EXPLAIN HOW THE RULE IMPACTS THE CLIMATE IN THE STATE:*  
No impact anticipated
8. **OTHER:** *EXPLAIN HOW THE RULE IMPACT OTHER ASPECTS OF VERMONT'S ENVIRONMENT:*  
No impact anticipated
9. **SUFFICIENCY:** *DESCRIBE HOW THE ANALYSIS WAS CONDUCTED, IDENTIFYING RELEVANT INTERNAL AND/OR EXTERNAL SOURCES OF INFORMATION USED.*  
No impact anticipated

## Public Input Maximization Plan

### **Instructions:**

Agencies are encouraged to hold hearings as part of their strategy to maximize the involvement of the public in the development of rules. Please complete the form below by describing the agency's strategy for maximizing public input (what it did do, or will do to maximize the involvement of the public).

This form must accompany each filing made during the rulemaking process:

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#### 1. TITLE OF RULE FILING:

**Person-Centered Planning - Home and Community-Based Services**

#### 2. ADOPTING AGENCY:

Agency of Human Services (AHS)

#### 3. PLEASE DESCRIBE THE AGENCY'S STRATEGY TO MAXIMIZE PUBLIC INVOLVEMENT IN THE DEVELOPMENT OF THE PROPOSED RULE, LISTING THE STEPS THAT HAVE BEEN OR WILL BE TAKEN TO COMPLY WITH THAT STRATEGY:

The rule was shared with the Vermont Medicaid and Exchange Advisory Committee, where no comments were received. It was also shared with key external stakeholders, including Vermont Legal Aid, the Bi-State Primary Care Association, Vermont Care Partners, the VNAs of Vermont, the Vermont Association of Hospitals and Health Systems, and the Vermont Medical Society. No comments were received from any of these stakeholders.

The proposed rule will be posted on the AHS website for public comment, and a public hearing will be held on January 10, 2025. When the rule is filed with the Office of the Secretary of State, AHS will provide stakeholders and all persons who subscribe to the Global Commitment Register with notice and access to it through the Global Commitment Register.

The Global Commitment Register, a comprehensive database, ensures easy access to notifications of policy changes and clarification of existing Medicaid

## Public Input

policy, including rulemaking, under Vermont's 1115 Global Commitment to Health waiver. It's open for subscription to all. Subscribers will receive email notifications about the filing, including hyperlinks to the documents posted on the Global Commitment Register and an explanation of how to be further involved in the rulemaking.

Lastly, the rule will be presented to the Department of Disabilities, Aging, and Independent Living Advisory Board.

### **4. BEYOND GENERAL ADVERTISEMENTS, PLEASE LIST THE PEOPLE AND ORGANIZATIONS THAT HAVE BEEN OR WILL BE INVOLVED IN THE DEVELOPMENT OF THE PROPOSED RULE:**

The Agency of Human Services including its departments;  
DAIL Advisory Board;

State DMH Program Standing Committees

## Incorporation by Reference

**THIS FORM IS ONLY REQUIRED WHEN INCORPORATING MATERIALS BY REFERENCE. PLEASE REMOVE PRIOR TO DELIVERY IF IT DOES NOT APPLY TO THIS RULE FILING:**

### **Instructions:**

In completing the incorporation by reference statement, an agency describes any materials that are incorporated into the rule by reference and how to obtain copies.

This form is only required when a rule incorporates materials by referencing another source without reproducing the text within the rule itself (e.g., federal or national standards, or regulations).

Incorporated materials will be maintained and available for inspection by the Agency.

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#### 1. TITLE OF RULE FILING:

**Person-Centered Planning - Home and Community-Based Services**

#### 2. ADOPTING AGENCY:

Agency of Human Services (AHS)

#### 3. DESCRIPTION (*DESCRIBE THE MATERIALS INCORPORATED BY REFERENCE*):

42 C.F.R. 441.301(c)(1)(vi), which provides mandatory conflict-of-interest standards, is incorporated by reference into this proposed rule at 8.103.3(a)(6).

42 C.F.R. 441.301(c)(1)(vi) states:

Providers of HCBS for the individual, or those who have an interest in or are employed by a provider of HCBS for the individual must not provide case management or develop the person-centered service plan, except when the State demonstrates that the only willing and qualified entity to provide case management and/or develop person-centered service plans in a geographic area also provides HCBS. In these cases, the State must devise conflict of interest protections including separation of entity and provider functions within

provider entities, which must be approved by CMS. Individuals must be provided with a clear and accessible alternative dispute resolution process.

42 C.F.R. 441.301(c)(4)(i)-(vi), which provides the mandatory characteristics of a Home and Community-Based Setting, is incorporated by reference into this proposed rule at 8.103.4(a)(1).

42 C.F.R. 441.301(c)(4)(i)-(vi) states:

Home and Community-Based Settings. Home and community-based settings must have all of the following qualities, and such other qualities as the Secretary determines to be appropriate, based on the needs of the individual as indicated in their person-centered service plan:

(i) The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.

(ii) The setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board.

(iii) Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.

(iv) Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.



(v) Facilitates individual choice regarding services and supports, and who provides them.

42 C.F.R. 441.301(c)(4)(vi)(A) through (F), which provides the additional conditions that must be met in a Provider owned Home and Community-Based Setting, is incorporated by reference into this proposed rule at 8.103.5(a).

42 C.F.R. 441.301(c)(4)(vi)(A) through (F), states:

In a provider-owned or controlled residential setting, in addition to the qualities at 42 C.F.R.

441.301(c)(4)(i) through (v), the following additional conditions must be met:

(A) 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 have under the landlord/tenant law of the State, county, city, or other designated entity. For settings in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other 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.

(B) Each individual has privacy in their sleeping or living unit:

(1) Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.

(2) Individuals sharing units have a choice of roommates in that setting.

(3) Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.

(C) Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time.

(D) Individuals are able to have visitors of their choosing at any time.

(E) The setting is physically accessible to the individual.

(F) Any modification of the additional conditions, under § 441.301(c) (4) (vi) (A) through (D), must be supported by a specific assessed 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 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.

(8) Include an assurance that interventions and supports will cause no harm to the individual.

**4. FORMAL CITATION OF MATERIALS INCORPORATED BY REFERENCE:**

42 C.F.R. 441.301(c) (1) (vi), 42 C.F.R. 441.301(c) (4) (i) - (vi), 42 C.F.R. 441.301(c) (4) (vi) (A) through (F).

**5. OBTAINING COPIES: *(EXPLAIN WHERE THE PUBLIC MAY OBTAIN THE MATERIAL(S) IN WRITTEN OR ELECTRONIC FORM, AND AT WHAT COST):***

The public may obtain the materials in electronic form from the following web addresses at no cost.

[https://www.ecfr.gov/current/title-42/part-441#p-441.301\(c\) \(1\) \(vi\)](https://www.ecfr.gov/current/title-42/part-441#p-441.301(c)(1)(vi)),

[https://www.ecfr.gov/current/title-42/part-441#p-441.301\(c\)\(4\)](https://www.ecfr.gov/current/title-42/part-441#p-441.301(c)(4)),

[https://www.ecfr.gov/current/title-42/part-441#p-441.301\(c\)\(4\)\(vi\)](https://www.ecfr.gov/current/title-42/part-441#p-441.301(c)(4)(vi))

**6. MODIFICATIONS** (*PLEASE EXPLAIN ANY MODIFICATION TO THE INCORPORATED MATERIALS E.G., WHETHER ONLY PART OF THE MATERIAL IS ADOPTED AND IF SO, WHICH PART(S) ARE MODIFIED*):

There are no modifications.

Run Spell Check

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Person-Centered Planning – Home and Community-Based Services

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8.103 Person-centered Planning – Home and Community-Based Services (xx/xx/xxx, GCR xx-xxx)8.103.1 Introduction

The rule implements the responsibilities of Vermont Medicaid under 42 CFR 441.301(c)(1) through 42 CFR 441.301(c)(3) regarding person-centered planning for delivering home and community-based services under the Global Commitment to Health Waiver, as approved by Centers for Medicare and Medicaid Services (CMS). The rule sets the requirements for the person-centered planning process. The rule also sets forth requirements for the service plan, reflecting that services and supports align with the individual's assessment of functional needs and the requirements for annual review. Additionally, the rule sets forth the requirements for what must be documented when there are modifications of the additional conditions under 42 CFR 441.301(c)(4)(vi)(A) through (D).

8.103.2 Definitions

For the purposes of this rule, the term:

- (a) **“Additional Conditions”** means
  - (1) 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 have under the landlord/tenant law of the State, county, city or other designated entity. For settings in which the landlord/tenant laws do not apply, the State must ensure that a lease, residency agreement or other 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.
  - (2) Each individual has privacy in their sleeping or living unit:
    - (A) Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.
    - (B) Individuals sharing units have a choice of roommates in that setting.
    - (C) Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.
  - (3) Individuals have the freedom and support to control their own schedule and activities, and have access to food at any time.
  - (4) Individuals are able to have visitors of their choosing at any time.
- (b) **“Individual”** means a person enrolled in one of Vermont's Medicaid Home and Community-Based Services (HCBS) programs.
- (c) **“Natural Supports”** means unpaid assistance, guidance, and resources provided by family, friends, peers, community members, and other informal sources to individuals.

8.103.3 Process Requirements for Person-Centered Planning

- (a) Where possible, the individual leads the person-centered planning process, with their representative participating as defined by the individual unless State law confers decision-making authority to the legal representative. All

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### Person-Centered Planning – Home and Community-Based Services

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references to the individuals comprise the role of their representative. In addition to being led by the individual receiving services and supports, the person-centered planning process must:

- (1) Include people chosen by the individual.
- (2) Provide necessary information and support to ensure that the individual directs the process to the maximum extent possible and is enabled to make informed choices and decisions.
- (3) Ensure timely scheduling within the period required by AHS policy and occur at times and locations convenient to the individual.
- (4) Reflect cultural considerations of the individual and provide information in plain language, as defined in HCAR 1.101, and in a manner that is accessible to individuals with disabilities and persons who have limited English proficiency.
- (5) Include a process for solving conflict or disagreement within the process, including clear conflict of interest guidelines for all planning participants.
- (6) Comply with conflict-of-interest standards per 42 CFR 441.301(c)(1)(vi).
- (7) Offer informed choices to the individual regarding the services and supports they receive and from whom.
- (8) Include a method for the individual to request updates to the plan as needed.

#### 8.103.4 Person-Centered Service Plan Content Requirements

- (a) The person-centered service plan must:
  - (1) Reflect that the setting in which the individual resides is chosen by the individual and that the setting complies with 42 CFR 441.301(c)(4)(i)-(v).
  - (2) Reflect the individual's strengths and preferences.
  - (3) Reflect clinical and support needs as identified through an assessment of functional needs.
  - (4) Include individually identified goals and desired outcomes.
  - (5) Reflect the services and supports (paid and unpaid) that will assist the individual in achieving identified goals and the providers of those services and supports, including natural supports.
  - (6) Reflect risk factors and measures in place to minimize them, including individualized backup plans and strategies when needed.
  - (7) Be understandable to the individual and the persons supporting them, written in plain language, and accessible to individuals with disabilities and those with limited English proficiency.
  - (8) Specify who is responsible for monitoring the plan.
  - (9) Be finalized and agreed to, with the individual's informed consent in writing, and signed by all individuals and providers responsible for its implementation.
  - (10) Be made available and shared with involved parties.
  - (11) Specify the services that the individual has chosen to self-direct.
  - (12) Prevent the provision of unnecessary or inappropriate services and supports.

Person-Centered Planning – Home and Community-Based Services

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8.103.5 Modification of additional conditions

- (a) Any modification to the additional conditions, under §441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan. The following requirements must be documented in the person-centered service plan:
- (1) The specific and individualized assessed need.
  - (2) Positive interventions and supports used before modifications to the person-centered service plan.
  - (3) Less intrusive methods of meeting the need have been attempted but unsuccessful.
  - (4) Include a clear description of the condition that is directly proportionate to the specific assessed need.
  - (5) Include regular collection 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.
  - (8) Include an assurance that interventions and supports will not harm the individual.

8.103.6 Review of the Person-Centered Plan

- (a) The Vermont Medicaid Program must review and revise the person-centered plan upon reassessment of functional needs at least every 12 months, when significant changes in the individual's circumstances or needs occur, or upon the individual's request.



## INTERAGENCY COMMITTEE ON ADMINISTRATIVE RULES (ICAR) MINUTES

**Meeting Date/Location:** October 14, 2024, virtually via Microsoft Teams

**Members Present:** Chair Sean Brown, Jared Adler, Jennifer Mojo, John Kessler, Michael Obuchowski, Natalie Weill, and Nicole Dubuque

**Members Absent:** Diane Sherman

**Minutes By:** Melissa Mazza-Paquette

- 2:00 p.m. meeting called to order, welcome and introductions.
- Review and approval of [minutes](#) from the August 12, 2024 meeting.
- No additions/deletions to agenda. Agenda approved as drafted.
- No public comments made.
- Presentation of Proposed Rules on pages to follow.
  1. Updates to the Hazard Communication Standard, Department of Labor, page 2
  2. Administrative Rules of the Board of Dental Examiners, Secretary of State, Office of Professional Regulation, page 3
  3. Council Rules, Vermont Criminal Justice Council, page 4
  4. Critical Incident Management System – Home and Community-Based Services, Agency of Human Services, page 5
  5. Person-centered Planning – Home and Community-Based Services, Agency of Human Services, page 6
- Next scheduled meeting is Friday, November 15, 2024 at 1:00 p.m.
- 3:04 p.m. meeting adjourned.

**Proposed Rule: Person-centered Planning – Home and Community-Based Services, Agency of Human Services**

**Presented By:** Conor O'Dea

Motion made to accept the rule as presented without any recommendations by Sean Brown, seconded by Jen Mojo, and passed unanimously except for Natalie Weill who abstained.

DRAFT



Medicaid Policy Unit  
280 State Drive, Center Building  
Waterbury, VT 05671-1000

January 16, 2025

On behalf of Vermont Care Partners (VCP) and Developmental Services (DS) providers across the state, we appreciate the opportunity to provide formal public comment on Vermont's proposed rule for person-centered planning under the Home and Community-Based Services (HCBS) program. These comments reflect providers' collective insights and address concerns critical to ensuring the success of this initiative. Below, we outline key observations and official public comments to strengthen the rule and ensure alignment with best practices.

### Stakeholder Engagement and Transparency

**Observation:** The rule does not explicitly address ongoing engagement with providers, individuals, families, and public guardians. Providers have expressed concerns stemming from recent experiences with DDS, which include less-than-ideal transparency, such as:

- Items not being posted on the Global Commitment Register.
- Short or no advance notice for significant discussions or decision-making processes.
- Documents provided with insufficient time for review.

**Official Public Comment:** The rule should require the establishment of a formal Person-Centered Planning Advisory Group, including providers, individuals, families, and public guardians. This group would provide regular input, review implementation progress, and address barriers to person-centered planning practices. The existing COI group could potentially be repurposed to serve this function post-October 2025.

### Accountability for State Oversight

**Observation:** Oversight mechanisms for the state's implementation of person-centered planning are not clearly defined. With Case Management Entities (CME) launching in October 2025, providers are concerned about the lack of clear structures to ensure accountability and quality.

**Official Public Comment:** The rule should require the state to:

- Publish periodic quality reports on person-centered planning.
- Conduct independent audits of CMEs.
- Establish clear corrective actions for non-compliance.

### Temporary or Interim Service Plans

**Observation:** The proposed rule does not include provisions for temporary or interim service plans. Without this flexibility, individuals may face delays in accessing services during transitions or while comprehensive plans are finalized.

**Official Public Comment:** Add a section allowing for interim service plans to address immediate needs for up to 60 days, ensuring continuity of care during transitions.

### **Conflict-Free Case Management Implementation**

**Observation:** While the rule mentions conflict-free case management, it does not outline mechanisms to hold CMEs accountable. Providers are concerned about risks of misalignment between case managers and direct service providers, potentially resulting in gaps in care.

**Official Public Comment:** The rule should include clear expectations for CMEs, such as:

- Regular reporting on individual outcomes.
- Demonstrating collaboration with providers.
- Establishing a formal process for resolving disputes.

### **Training and Certification for Case Managers**

**Observation:** The proposed rule does not specify training or certification requirements for case managers. Without consistent training, there is a risk of variability in the application of person-centered practices, particularly as CMEs are introduced.

**Official Public Comment:** Mandate that all case managers complete person-centered planning training (e.g., Charting the LifeCourse Training) before engaging with individuals. Include ongoing education requirements to ensure skills remain current.

### **Quality and Transparency Measures**

**Observation:** The rule lacks specific quality indicators and transparency tools for service plan development and implementation.

**Official Public Comment:** Define quality metrics such as timeliness of updates, alignment with assessed needs, HCBS Measure Set and performance in person-centered plan audits. Encourage the use of electronic portals to give individuals, families, and providers real-time access to service plans and updates.

### **Wellness and Whole-Person Care**

**Observation:** The rule focuses on safety and functional needs but does not address broader wellness goals, such as health promotion, illness prevention, and social determinants of health.

**Official Public Comment:** Include provisions for integrating wellness goals into person-centered plans, promoting holistic approaches that better support individuals.

### **Documenting Restraints and Human Rights Committees (HRC)**

**Observation:** The proposed rule does not address the use of restraints or the role of Human Rights Committees (HRCs). Additionally, Vermont's Behavioral Support Guidelines have not been updated since 2004, making them inconsistent with modern HCBS principles.

**Official Public Comment:** Require any use of restraints to be documented in the individual's service plan, reviewed, and approved by an HRC. Plans should specify the behaviors necessitating restraints, include criteria for discontinuation, and undergo regular review. Vermont should urgently revise Behavioral Support Guidelines to emphasize positive supports, least restrictive interventions (aligned with the Olmstead Plan), and a rights-focused framework. The Behavioral Support Guidelines should include proper credentialing requirements for mental health and behavioral support professionals in the DS system, aligning with the standards required in mental health services, especially as some supports transition to fee-for-service models.

### **Timeframes for Service Plan Updates**

**Observation:** The rule does not specify timelines for updating service plans after significant changes in an individual's circumstances, which could result in delays.

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**Official Public Comment:** Establish specific timeframes for updates, such as requiring plans to be updated within 30 days of a significant change or 7 days for urgent circumstances.

**Accountability for CME Non-Compliance**

**Observation:** The rule does not provide guidance on what providers can do if a CME fails to meet obligations, such as updating service plans.

**Official Public Comment:** Outline escalation pathways for direct service providers, including:

- Reporting non-compliance to state agencies.
- Documenting issues and requesting state intervention to address CME failures.

Vermont Care Partners appreciates the opportunity to provide these public comments on behalf of DS providers. By incorporating these recommendations, Vermont can establish a robust person-centered planning framework that upholds individual rights, ensures quality care, and promotes transparency and accountability.

We look forward to collaborating with the state to ensure successful implementation.

Sincerely,

A handwritten signature in black ink, appearing to read 'S. Rueschemeyer', with a long horizontal flourish extending to the right.

Simone Rueschemeyer  
Executive Director  
**Vermont Care Partners**



**State of Vermont**  
**Agency of Human Services**  
280 State Drive  
Waterbury, VT 05671-1000  
[www.humanservices.vermont.gov](http://www.humanservices.vermont.gov)

*Jenney Samuelson, Secretary*  
*Kristin L. McClure, Deputy Secretary*

[phone] 802-241-0440  
[fax] 802-241-0450

**Date: 3/28/2025**

**Re:** Response to Public Comments for Global Commitment Register notice

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Comments received are included below.

**Comment:** The rule should require the establishment of a formal Person-Centered Planning Advisory Group, including providers, individuals, families, and public guardians. This group would provide regular input, review implementation progress, and address barriers to person-centered planning practices. The existing COI group could potentially be repurposed to serve this function post-October 2025.

**State Response:** Establishing a formal Person-Centered Planning Advisory Group is beyond the scope of this rule.

**Comment:** The rule should require the state to:

- Publish periodic quality reports on person-centered planning.
- Conduct independent audits of CMEs.
- Establish clear corrective actions for non-compliance.

**State Response:** Requiring the publishing of quality reports, conducting audits, and protocols for correction plans is beyond the scope of this rule.

**Comment:** Add a section allowing for interim service plans to address immediate needs for up to 60 days, ensuring continuity of care during transitions.

**State Response:** Establishing interim service plans or specific timeframes is outside this rule's scope. The Departments responsible for program operations will develop protocols to ensure continuity of care during transitions, including defining appropriate timeframes and processes for interim service plans to address immediate needs.

**Comment:** The rule should include clear expectations for CMEs, such as:

- Regular reporting on individual outcomes.
- Demonstrating collaboration with providers.
- Establishing a formal process for resolving disputes.

**State Response:** Establishing specific reporting and accountability requirements for Case Management Entities (CMEs) is beyond the scope of this rule. The Departments overseeing Home and Community-Based Services are responsible for setting and enforcing clear expectations, including monitoring individual outcomes, fostering collaboration with providers, and ensuring a formal dispute-resolution process.

**Comment:** Mandate that all case managers complete person-centered planning training (e.g., Charting the LifeCourse Training) before engaging with individuals. Include ongoing education requirements to ensure skills remain current.

**State Response:** Training requirements for case managers are determined by the Departments overseeing Home and Community-Based Services and are not set within this rule. However, the departments recognize the importance of person-centered planning and that case managers receive appropriate training, which will ensure ongoing education to maintain best practices in service delivery.

**Comment:** Include provisions for integrating wellness goals into person-centered plans, promoting holistic approaches that better support individuals.

**State Response:** The rule ensures that individuals lead the development of their service plans and goals, allowing them the flexibility to include wellness goals based on their preferences and needs. While the rule does not mandate specific goal areas, individuals are encouraged to incorporate holistic approaches that support their overall well-being.

**Comment:** Require any use of restraints to be documented in the individual's service plan, reviewed, and approved by an HRC. Plans should specify the behaviors necessitating restraints, include criteria for discontinuation, and undergo regular review. Vermont should urgently revise Behavioral Support Guidelines to emphasize positive supports, least restrictive interventions (aligned with the Olmstead Plan), and a rights-focused framework. The Behavioral Support Guidelines should include proper credentialing requirements for mental health and behavioral support professionals in the DS system, aligning with the standards required in mental health services, especially as some supports transition to fee-for-service models.

**State Response:** If restraints are used in service delivery, the individual must have a behavioral support plan attached to their Individual Support Agreement (person-centered plan). The Department of Disabilities, Aging, and Independent Living encourages best practices, and the Human Rights Committee reviews behavioral support plans incorporating restraints or other restrictive procedures. Vermont's Behavioral Support Guidelines also emphasize positive supports, least restrictive interventions, and a rights-based framework aligned with the Olmstead Plan. The Department continues to assess and refine these guidelines to uphold best practices, including credentialing standards for behavioral support professionals as service models evolve.

**Comment:** Establish specific timeframes for updates, such as requiring plans to be updated within 30 days of a significant change or 7 days for urgent circumstances.

**State Response:** Establishing specific timeframes for plan of care updates falls outside the scope of this rule. However, the Departments responsible for program operations will define and enforce appropriate timeframes for updates to ensure timely and effective service delivery.

**Comment:** Outline escalation pathways for direct service providers, including:

- Reporting non-compliance to state agencies.
- Documenting issues and requesting state intervention to address CME failures.

**State Response:** Establishing escalation pathways for direct service providers and mechanisms for state intervention falls outside the scope of this rule. However, the Departments responsible for operating Home and Community-Based Services oversee program compliance and will establish protocols to address non-compliance and service delivery concerns.

(802) 828-2863

MEMORANDUM

OFFICE OF THE SECRETARY OF STATE

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Primary Contact: Ashley Berliner, Agency of Human Services, Center Building, 280 State Drive, Waterbury, VT 05671-1000  
Tel: 802-578-9305 Fax: 802-241-0450 Email: Ashley.Berliner@vermont.gov

Secondary Contact: Connor O'Dea, Agency of Human Services, Center Building, 280 State Drive, Waterbury, VT 05671-1000  
Tel: 802-798-9890 Fax: 802-241-0450 Email: conor.odea@vermont.gov

URL: <https://humanservices.vermont.gov/rules-policies/health-care-rules/health-care-administrative-rules-hcar/p>

From: APA Coordinator, VSARA

RE: Person-Centered Planning - Home and Community-Based Services.

Date 04/30/2025

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We received Proposed Rule on 11/27/2024  
Final Proposed Rule on 04/30/2025  
Adopted Rule on

We have assigned the following rule number(s):

Proposed Rule Number: 24P048

Adopted Rule Number:

(Final Proposals are not assigned a new number; they retain the Proposed Rule Number.)

The following problems were taken care of by phone/should be taken care of immediately: Proposed Filing, the Year for the hearing dates and deadline for comment were entered as 2024, when it is supposed to be 2025.  
The dates have been corrected by SOS staff.

We cannot accept this filing until the following problems are taken care of:

The notice for this proposed rule appeared/will appear online on: 12/4/2024 and in the newspapers of record on 12/12/2024.

This rule takes effect on  
Adoption Deadline: 07/27/2025

Please note: The agency has requested a combined notice for 24P048, and 24P049.

If you have any questions, please call me at 828-2863. OR  
E-Mail me at: sos.statutoryfilings@vermont.gov

cc: Emery Mattheis

# The Vermont Statutes Online

The Statutes below include the actions of the 2024 session of the General Assembly.

**NOTE:** The Vermont Statutes Online is an unofficial copy of the Vermont Statutes Annotated that is provided as a convenience.

## **Title 3 : Executive**

### **Chapter 025 : Administrative Procedure**

#### **Subchapter 001 : GENERAL PROVISIONS**

(Cite as: 3 V.S.A. § 801)

#### **§ 801. Short title and definitions**

(a) This chapter may be cited as the “Vermont Administrative Procedure Act.”

(b) As used in this chapter:

(1) “Agency” means a State board, commission, department, agency, or other entity or officer of State government, other than the Legislature, the courts, the Commander in Chief, and the Military Department, authorized by law to make rules or to determine contested cases.

(2) “Contested case” means a proceeding, including but not restricted to rate-making and licensing, in which the legal rights, duties, or privileges of a party are required by law to be determined by an agency after an opportunity for hearing.

(3) “License” includes the whole or part of any agency permit, certificate, approval, registration, charter, or similar form of permission required by law.

(4) “Licensing” includes the agency process respecting the grant, denial, renewal, revocation, suspension, annulment, withdrawal, or amendment of a license.

(5) “Party” means each person or agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party.

(6) “Person” means any individual, partnership, corporation, association, governmental subdivision, or public or private organization of any character other than an agency.

(7) “Practice” means a substantive or procedural requirement of an agency, affecting one or more persons who are not employees of the agency, that is used by the agency in the discharge of its powers and duties. The term includes all such requirements, regardless of whether they are stated in writing.



(8) “Procedure” means a practice that has been adopted in writing, either at the election of the agency or as the result of a request under subsection 831(b) of this title. The term includes any practice of any agency that has been adopted in writing, whether or not labeled as a procedure, except for each of the following:

(A) a rule adopted under sections 836-844 of this title;

(B) a written document issued in a contested case that imposes substantive or procedural requirements on the parties to the case;

(C) a statement that concerns only:

(i) the internal management of an agency and does not affect private rights or procedures available to the public;

(ii) the internal management of facilities that are secured for the safety of the public and the individuals residing within them; or

(iii) guidance regarding the safety or security of the staff of an agency or its designated service providers or of individuals being provided services by the agency or such a provider;

(D) an intergovernmental or interagency memorandum, directive, or communication that does not affect private rights or procedures available to the public;

(E) an opinion of the Attorney General; or

(F) a statement that establishes criteria or guidelines to be used by the staff of an agency in performing audits, investigations, or inspections, in settling commercial disputes or negotiating commercial arrangements, or in the defense, prosecution, or settlement of cases, if disclosure of the criteria or guidelines would compromise an investigation or the health and safety of an employee or member of the public, enable law violators to avoid detection, facilitate disregard of requirements imposed by law, or give a clearly improper advantage to persons that are in an adverse position to the State.

(9) “Rule” means each agency statement of general applicability that implements, interprets, or prescribes law or policy and that has been adopted in the manner provided by sections 836-844 of this title.

(10) “Incorporation by reference” means the use of language in the text of a regulation that expressly refers to a document other than the regulation itself.

(11) “Adopting authority” means, for agencies that are attached to the Agencies of Administration, of Commerce and Community Development, of Natural Resources, of Human Services, and of Transportation, or any of their components, the secretaries of those agencies; for agencies attached to other departments or any of their components, the commissioners of those departments; and for other agencies, the chief officer of the agency. However, for the procedural rules of boards with quasi-judicial powers, for the Transportation Board, for the Vermont Veterans’ Memorial Cemetery Advisory Board,

and for the Fish and Wildlife Board, the chair or executive secretary of the board shall be the adopting authority. The Secretary of State shall be the adopting authority for the Office of Professional Regulation.

(12) “Small business” means a business employing no more than 20 full-time employees.

(13)(A) “Arbitrary,” when applied to an agency rule or action, means that one or more of the following apply:

(i) There is no factual basis for the decision made by the agency.

(ii) The decision made by the agency is not rationally connected to the factual basis asserted for the decision.

(iii) The decision made by the agency would not make sense to a reasonable person.

(B) The General Assembly intends that this definition be applied in accordance with the Vermont Supreme Court’s application of “arbitrary” in *Beyers v. Water Resources Board*, 2006 VT 65, and *In re Town of Sherburne*, 154 Vt. 596 (1990).

(14) “Guidance document” means a written record that has not been adopted in accordance with sections 836-844 of this title and that is issued by an agency to assist the public by providing an agency’s current approach to or interpretation of law or describing how and when an agency will exercise discretionary functions. The term does not include the documents described in subdivisions (8)(A) through (F) of this section.

(15) “Index” means a searchable list of entries that contains subjects and titles with page numbers, hyperlinks, or other connections that link each entry to the text or document to which it refers. (Added 1967, No. 360 (Adj. Sess.), § 1, eff. July 1, 1969; amended 1981, No. 82, § 1; 1983, No. 158 (Adj. Sess.), eff. April 13, 1984; 1985, No. 56, § 1; 1985, No. 269 (Adj. Sess.), § 4; 1987, No. 76, § 18; 1989, No. 69, § 2, eff. May 27, 1989; 1989, No. 250 (Adj. Sess.), § 88; 2001, No. 149 (Adj. Sess.), § 46, eff. June 27, 2002; 2017, No. 113 (Adj. Sess.), § 3; 2017, No. 156 (Adj. Sess.), § 2.)

## The Vermont Statutes Online

The Statutes below include the actions of the 2024 session of the General Assembly.

**NOTE:** The Vermont Statutes Online is an unofficial copy of the Vermont Statutes Annotated that is provided as a convenience.

### **Title 33 : Human Services**

#### **Chapter 019 : Medical Assistance**

##### **Subchapter 001 : MEDICAID**

(Cite as: **33 V.S.A. § 1901e**)

##### **§ 1901e. Global Commitment Fund**

(a) The Global Commitment Fund is created in the Treasury as a special fund. The Fund shall consist of the revenues received by the Treasurer as payment of the actuarially certified premium from the Agency of Human Services to the managed care organization within the Department of Vermont Health Access for the purpose of providing services under the Global Commitment to Health waiver approved by the Centers for Medicare and Medicaid Services under Section 1115 of the Social Security Act.

(b) The monies in the Fund shall be disbursed as allowed by appropriation of the General Assembly, and shall be disbursed by the Treasurer on warrants issued by the Commissioner of Finance and Management, when authorized by the Commissioner of Vermont Health Access and approved by the Commissioner of Finance and Management consistent with the interdepartmental agreements between the managed care organization within the Department of Vermont Health Access and departments delivering eligible services under the waiver. The Department of Vermont Health Access shall not modify an appropriation through an interdepartmental agreement or any other mechanism. A department or agency authorized to spend monies from this Fund under an interdepartmental agreement may spend monies appropriated as a base Medicaid expense for an allowable managed care organization investment under the terms and conditions of the Global Commitment to Health Medicaid Section 1115 waiver only after receiving approval from the Agency of Human Services.

(c) Annually, on or before October 1, the Agency shall provide a detailed report to the Joint Fiscal Committee that describes the managed care organization's investments under the terms and conditions of the Global Commitment to Health Medicaid Section 1115 waiver, including the amount of the investment and the agency or departments authorized to make the investment. (Added 2005, No. 93 (Adj. Sess.), § 16c, eff. Oct. 1, 2005; amended 2005, No. 215 (Adj. Sess.), § 307, eff. May 31, 2006; 2009, No. 156 (Adj. Sess.), § 1.46; 2013, No. 131 (Adj. Sess.), § 40, eff. May 20, 2014; 2015, No. 172 (Adj. Sess.), § E.306.5; 2021, No. 20, § 299.)

OFFICE OF THE SECRETARY OF STATE  
VERMONT STATE ARCHIVES & RECORDS ADMINISTRATION (VSARA)  
(802) 828-2863

TO:	Seven Days Legals ( <a href="mailto:legals@sevendaysvt.com">legals@sevendaysvt.com</a> )	Tel: (802) 865-1020 x110.
	The Caledonian Record Julie Poutre ( <a href="mailto:adv@caledonian-record.com">adv@caledonian-record.com</a> )	Tel: 748-8121 FAX: 748-1613
	Times Argus / Rutland Herald Classified Ads ( <a href="mailto:classified.ads@rutlandherald.com">classified.ads@rutlandherald.com</a> )	Tel: 802-747-6121 ext 2238 FAX: 802-776-5600
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	The Bennington Banner / Brattleboro Reformer Lylah Wright ( <a href="mailto:lwright@reformer.com">lwright@reformer.com</a> ;	Tel: 254-2311 ext. 132 FAX: 447-2028 Attn: Lylah Wright
	The Chronicle ( <a href="mailto:ads@bartonchronicle.com">ads@bartonchronicle.com</a> )	Tel: 525-3531 FAX: 880-1040
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	Newport Daily Express ( <a href="mailto:jlafoe@newportvermontdailyexpress.com">jlafoe@newportvermontdailyexpress.com</a> )	Tel: 334-6568 FAX: 334-6891 Attn: Jon Lafoe
	News & Citizen ( <a href="mailto:mike@stowereporter.com">mike@stowereporter.com</a> ) Irene Nuzzo ( <a href="mailto:irene@newsandcitizen.com">irene@newsandcitizen.com</a> and <a href="mailto:ads@stowereporter.com">ads@stowereporter.com</a> removed from distribution list per Lisa Stearns.	Tel: 888-2212 FAX: 888-2173
	St. Albans Messenger Legals ( <a href="mailto:legals@samessenger.com">legals@samessenger.com</a> ; <a href="mailto:cfoley@orourkemediagroup.com">cfoley@orourkemediagroup.com</a> )	Tel: 524-9771 ext. 117 FAX: 527-1948 Attn: Legals
	The Islander ( <a href="mailto:islander@vermontislander.com">islander@vermontislander.com</a> )	Tel: 802-372-5600 FAX: 802-372-3025
	Vermont Lawyer ( <a href="mailto:hunter.press.vermont@gmail.com">hunter.press.vermont@gmail.com</a> )	Attn: Will Hunter

**FROM:** APA Coordinator, VSARA

**Date of Fax:** May 1, 2025

**RE:** The "Proposed State Rules " ad copy to run on

**December 12, 2024**

PAGES INCLUDING THIS COVER MEMO:

**2**

**\*NOTE\* 8-pt font in body. 12-pt font max. for headings - single space body. Please include dashed lines where they appear in ad copy. Otherwise minimize the use of white space. Exceptions require written approval.**

If you have questions, or if the printing schedule of your paper is disrupted by holiday etc. please contact VSARA at 802-828-3700, or E-Mail [sos.statutoryfilings@vermont.gov](mailto:sos.statutoryfilings@vermont.gov), Thanks.

## PROPOSED STATE RULES

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By law, public notice of proposed rules must be given by publication in newspapers of record. The purpose of these notices is to give the public a chance to respond to the proposals. The public notices for administrative rules are now also available online at <https://secure.vermont.gov/SOS/rules/>. The law requires an agency to hold a public hearing on a proposed rule, if requested to do so in writing by 25 persons or an association having at least 25 members.

To make special arrangements for individuals with disabilities or special needs please call or write the contact person listed below as soon as possible.

To obtain further information concerning any scheduled hearing(s), obtain copies of proposed rule(s) or submit comments regarding proposed rule(s), please call or write the contact person listed below. You may also submit comments in writing to the Legislative Committee on Administrative Rules, State House, Montpelier, Vermont 05602 (802-828-2231).

---

**Note:** The two rules below are being promulgated by the Agency of Human Services who has requested the notices be combined to facilitate a savings for the agency. Please note the title and number of the rule(s) you are interested in when contacting the agency.

- 8.103: Person-centered Planning – Home and Community-Based Services  
Vermont Proposed Rule: **24P048**
- 9.101: Critical Incident Management System – Home and Community-Based Services  
Vermont Proposed Rule: **24P049**

AGENCY: Agency of Human Services

CONCISE SUMMARY: The proposed rules establish the framework for incident management and person-centered planning in Vermont Medicaid under the Global Commitment to Health Waiver. Rule 9.101 outlines the requirements for an incident management system to safeguard individuals receiving home and community-based services, while Rule 8.103 details the criteria for person-centered service planning, ensuring alignment with individual needs and documenting any modifications to residential rights.

FOR FURTHER INFORMATION, CONTACT: Ashley Berliner Agency of Human Services 280 State Drive Waterbury, VT 05671-1000 Tel: 802-578-9305 Fax: 802-241-0450 E-Mail: [ashley.berliner@vermont.gov](mailto:ashley.berliner@vermont.gov)  
URL: <http://humanservices.vermont.gov/on-line-rules>.

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# Proposed Rules Postings

## A Service of the Office of the Secretary of State

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## Search Rules

### Deadline For Public Comment

Deadline: Jan 17, 2025

The deadline for public comment has expired. Contact the agency or primary contact person listed below for assistance.

### Rule Details

Rule Number:	24P048
Title:	Person-Centered Planning - Home and Community-Based Services.
Type:	Standard
Status:	Final Proposed
Agency:	Agency of Human Services
Legal Authority:	3 V.S.A. § 801(b)(11); 33 V.S.A. § 1901(a)(1)
Summary:	This proposed rulemaking aligns with federal regulation for person-centered planning in delivering home and community-based services under the Global Commitment to Health Waiver, approved by CMS. The proposed rule establishes the requirements for the planning process, service plans, annual reviews, and the required documentation for modifications to the additional qualities of a home and community-based setting.
Persons Affected:	HCBS Medicaid Beneficiaries, Agency of Human Services and its Departments and Community-Based organizations. There is a one-time investment of \$200,000 for trainings regarding HCBS. A portion of the investment will be used to train on Person-Centered Planning best practices and standards. This rule does not increase or reduce the economic burden on any individual or entity, nor does it impact the State's gross annualized budget. The investment in training ensures compliance with the new rule and federal laws.
Economic Impact:	
Posting date:	Dec 04,2024

### Hearing Information

**Information for Hearing # 1**

Hearing date: 01-10-2025 11:00 AM [ADD TO YOUR CALENDAR](#)

Location: Virtual via MS Teams only

Address: <https://www.microsoft.com/en-us/microsoft-teams/join-a-meeting>

City: Meeting ID: 280 570 096 366 Passcode: SmHpbZ call in 802-828-7667, Phone conference ID: 97680834#

State: VT

Zip: n/a

Hearing Notes: MS Teams only - Phone or MicrosoftTeams call in 802-828-7667, Phone conference ID: 97680834#; <https://www.microsoft.com/en-us/microsoft-teams/join-a-meeting> Meeting ID: 280 570 096 366 Passcode: SmHpbZ

**Contact Information****Information for Primary Contact****PRIMARY CONTACT PERSON - A PERSON WHO IS ABLE TO ANSWER QUESTIONS ABOUT THE COM**

Level: Primary

Name: Ashley Berliner

Agency: Agency of Human Services

Address: 280 State Drive, Center Building

City: Waterbury

State: VT

Zip: 05671-1000

Telephone: 802-578-9305

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Website: <https://humanservices.vermont.gov/rules-policies/health-care-rules/health-care-administrative-rules-hca>

Address: [VIEW WEBSITE](#)

**Information for Secondary Contact****SECONDARY CONTACT PERSON - A SPECIFIC PERSON FROM WHOM COPIES OF FILINGS MAY BE | QUESTIONS ABOUT FORMS SUBMITTED FOR FILING IF DIFFERENT FROM THE PRIMARY CONTACT**

Level: Secondary

Name: Conor O'Dea

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[SEND A COMMENT](#)**Keyword Information**

Keywords:

Medicaid