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Camera Technical Assistance

Providers are responsible for ensuring cameras used comply with the Health Insurance Portability and Accountability Act (HIPAA) and the Health Information Technology for Economic and Clinical Health (HITECH) Act.

When cameras are being used, the provider must:

- Have policies and procedures in place, and distributed, that address the following:
 - Location of all the surveillance cameras;
 - How recordings will be secured and stored until they are disposed of or destroyed;
 - The method for how recordings will be securely disposed of or destroyed after a reasonable period; and
 - Who will have access to the equipment and any recordings.
- Obtain Informed Consent:
 - The consent should include the following:
 - i. The location of all cameras;
 - ii. The reasons why the monitoring/recording is taking place;
 - iii. When audio/video recordings may be released and for what purposes;
 - iv. A statement that only appropriate staff have access to the equipment and recordings; and
 - v. The length of time audio/video recordings are retained.

In Residential Level I and Residential Level II settings:

- Cameras in the home should be based on a specific and individualized assessed need for the participant. Cameras cannot be used as a blanket policy to oversee or monitor individuals, for staff convenience, or to replace staffing.
- Providers are responsible for ensuring cameras used comply with the Health Insurance Portability and Accountability Act (HIPAA) and the Health Information Technology for Economic and Clinical Health (HITECH) Act.
 - Ensure the following are documented in the person-centered service plan:
 - Document the positive interventions and supports used prior to use of cameras to meet the individual's assessed need.
 - Document less intrusive methods of meeting the need that have been tried but did not work.
 - Include a clear description of the condition that is directly proportionate to the specific assessed need for the use of a camera.
 - Include regular collection and review of data to measure the ongoing effectiveness of the modification.
 - Include established time limits for periodic reviews to determine if the use of cameras is still necessary or can be terminated.

- Include the informed consent of the individual.
- Include an assurance that interventions and supports will cause no harm to the individual.
- Obtain Informed Consent:
 - The consent form may be within the resident agreement or a separate form.
 - All individuals in the home have to give informed consent if a camera is used in a common area of the home.
 - Anytime a camera is used in a home, due process is required through a Human Rights Committee prior to implementing cameras, even if the individual consents to the camera.

Using Technology as a Virtual Support (i.e. Technology Assisted Residential Settings):

- Camera use for the provision of remote or virtual support is not a rights restriction and is compliant with the HCBS Final Settings Rule, **if the cameras are being used at the participant's choice and to promote greater independence.**
 - **A participant must choose to have cameras in their home.** This choice must be documented in their Person-Centered Service Plan (PCSP) and the provider must have a plan and/or policies to ensure the participant's rights to privacy, dignity, and respect. A participant may change their mind about the use of cameras in the setting at any time.
 - The use of cameras as virtual support must:
 - a. Be person-centered and facilitate community integration, not risk leading to the isolation of the participant from the community or interacting with other people.
 - b. Only be authorized in situations where it can increase a participant's independence without undue risk to the participant's health or safety.
- Providers are responsible for ensuring cameras used comply with the Health Insurance Portability and Accountability Act (HIPAA) and the Health Information Technology for Economic and Clinical Health (HITECH) Act.
- Providers must also comply with regulatory requirements found in SCL regulation 4(17).

In Day Training Settings:

- Cameras may not replace staff supervision.
- Providers are responsible for ensuring cameras used comply with the Health Insurance Portability and Accountability Act (HIPAA) and the Health Information Technology for Economic and Clinical Health (HITECH) Act.
- If cameras are used in public areas, such as lobbies or other more general areas, then the camera does not have to go through an HRC as long as everyone is aware of where the cameras are, and the purpose they serve. The agency's policies should make the intent of cameras in general areas clear.
- If cameras are in areas where a participant would expect more privacy (personal care areas, rooms where therapy is provided, etc.), or if an individual has a specific need that requires a

camera to be used that may be a restriction of their right to privacy, then due process should be afforded to the individual through the HRC.

Surveillance equipment in the following circumstances generally do not raise privacy concerns:

- Staff only areas (such as staff offices/med carts)
- Monitoring public areas outside of the building (such as parking lots)
- In commercial/integrated areas of the setting (such as stores, cafes, etc.)

Final Settings Rule requirements can be found in the [Code of Federal Regulations](https://www.ecfr.gov/current/title-42/chapter-IV/subchapter-C/part-441/subpart-K/section-441.530) (<https://www.ecfr.gov/current/title-42/chapter-IV/subchapter-C/part-441/subpart-K/section-441.530>).