



**Michelle Lujan Grisham, Governor**  
Kari Armijo, Secretary  
Alex Castillo Smith, Deputy Secretary  
Kathy Slater Huff, Deputy Secretary  
Kyra Ochoa, Deputy Secretary  
Dana Flannery, Medicaid Director

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Date: August 1, 2025

DDSD-DDW Numbered Memo 2025-10

To: All Developmental Disabilities Waiver Living Care Arrangement Service Providers

From: Selina Leyba, Developmental Disabilities Supports Division (DDSD), Community Programs Bureau Chief *SL*

Subject: Requirement for Lease Agreement Protections

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#### **LIVING CARE ARRANGEMENT (LCA) LEASE COMPLIANCE REQUIREMENT**

The Centers for Medicare and Medicaid Services (CMS) require that Living Care Arrangement (LCA) Service Providers ensure their service delivery model aligns with the regulatory criteria outlined in 42 CFR §441.301(c)(4)(vi)(A). This regulation mandates that every individual receiving services must have a lease, residency, or other legally enforceable written agreement that includes protections against eviction and clearly defined appeal processes comparable to those outlined under the jurisdiction's landlord-tenant laws.

#### **CMS REGULATORY LANGUAGE**

42 CFR 441.301(c)(4)(vi)(A) Home and Community-Based Settings:

*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.*

#### **LEASE MODIFICATION REQUIREMENT FOR ALL LCA PROVIDERS**

The below provider agencies must update lease agreements with the following mandatory language for individuals receiving:

- Supported Living
- Family Living



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- Intensive Medical Living Service (IMLS)
  - In-Home Living Supports (IHLS)

These revised agreements must be submitted to the Developmental Disabilities Supports Division (DDSD) no later than **September 30, 2025**. The leases will be reviewed and approved by DDSD to verify compliance with CMS Home and Community-Based Services (HCBS) settings requirements.

Mandatory Lease Language to be Incorporated:

**Right to a Fair Hearing:** You can ask for a Fair Hearing if you think the agency has denied your request in error.

**How to ask for a Fair Hearing:** You can ask for a Fair Hearing by email, phone, or in writing. You must ask within ninety (90) days of the date of notice. You can submit your request to the HCA Fair Hearings Bureau. You can represent yourself at the hearing, or a friend, relative, attorney, or other person can help you.

Ask for a Fair Hearing by email or phone. Or ask by writing a letter:

Email Address: [HCA-FairHearings@hca.nm.gov](mailto:HCA-FairHearings@hca.nm.gov)

Phone: (505)476-6213 or 1-800-432-6217. Press option 6

Fax Number: (505)476-6215

Mail: New Mexico Health Care Authority

Fair Hearings Bureau

P.O. Box 2348

Santa Fe, NM 87504-2348

**COMPLIANCE AND SUPPORT**

Compliance with this requirement is mandatory and failure to comply timely may result in contract management including potential civil monetary penalties.

Lease agreements should be submitted to: Steven Fernandez via Smartsheet at [Supported Living Provider-Lease Agreements](#)

For any questions, please contact: Lundy Tvedt, Statewide Case Management System Coordinator, DDSD, email: [Lundy.Tvedt@hca.nm.gov](mailto:Lundy.Tvedt@hca.nm.gov), phone: 505-859-5435.