

# Guidance for Use of Assistive Technology and Remote Supports in Residential Settings

## ODP Announcement 21-090

### AUDIENCE:

Individuals Receiving Residential Services and their Families, Friends, and other Natural Supports

Licensees subject to 55 Pa.Code Chapter 6400 (relating to Community Homes for an Intellectual Disability or Autism) or 55 Pa.Code Chapter 6500 (relating to Life Sharing Homes)<sup>1</sup>

Office of Developmental Programs (ODP)-enrolled Providers of unlicensed Residential Habilitation, Life Sharing or Supported Living services reimbursed through the Consolidated Waiver, Community Living Waiver, or base-funding

Supports Coordination Organizations (SCOs)

Administrative Entities (AEs)

### PURPOSE:

The purpose of this announcement is to provide guidance to licensees that operate Community Homes for Individuals with an Intellectual Disability or Autism, licensees that operate Life Sharing Homes, ODP-enrolled providers of licensed or unlicensed

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<sup>1</sup> This applies to all such licensees regardless of an individual's funding source, e.g. waiver funding, base funding, private insurance, etc.

Residential Habilitation, ODP-enrolled providers of licensed or unlicensed Life Sharing, and/or ODP-enrolled Supported Living providers (“Providers”) about the use of assistive technology and remote supports to achieve individual’s goals and outcomes while balancing the benefits of technology use with the requirement to protect each individual’s right to privacy.

## **DISCUSSION:**

The use of assistive technology and remote supports in residential settings can be beneficial in helping individuals achieve their goals and outcomes including:

- Increasing or maintaining the individual’s independence in their home and community with less reliance on professionals or natural supports.
- Increasing or maintaining the individual’s communication with providers, caregivers, family members, friends, and others.
- Developing and maintaining the individual’s relationships with members of the broader community and participating in preferred activities of community life.
- Increasing the individual’s ability to exercise choice and control over their everyday lives.
- Protecting the individual’s health and safety in the least intrusive manner.

Assistive Technology and remote supports in residential settings can only be used when an individual makes an informed choice to do so based on person-centered planning processes. Assistive Technology and remote supports should not be used solely for the convenience of the provider.

ODP has seen a significant increase in the use of assistive technology and remote supports in residential service provision in recent years, and fully supports the use of technology to maximize individuals' independence and to improve health and safety protections. At the same time, residential providers must ensure that technology used meets regulatory and applicable waiver requirements, including but not limited to an individual's right to privacy.

## **WHAT IS THE DIFFERENCE BETWEEN ASSISTIVE TECHNOLOGY AND REMOTE SUPPORTS IN RESIDENTIAL SETTINGS?**

The basic difference between Assistive Technology and Remote Supports is:

- Assistive Technology means the *devices* used to support an individual in meeting their goals.
- Remote Supports means the *act of using the devices* to support an individual in meeting their goals.

Assistive Technology in residential service delivery generally means an item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve an individual's functioning or increase an individual's ability to exercise choice and control.

Assistive technology devices range in complexity from low-tech to high-tech and include, but are not limited to:

- Low-tech:
  - Communication boards,

- Adaptive utensils used for eating and drinking,
- Visual schedules
- High-tech:
  - Cameras or other visual recording devices,
  - Audio monitoring devices,
  - Audio/Visual communication devices and platforms such as Skype, FaceTime, etc.
  - Monitoring devices not on the individual's person, such as door sensors, window sensors, stove sensors, water sensors, pressure pads, and the equipment necessary to operate remote supports technology.
  - Monitoring devices worn or carried by the person, such as GPS Tracking Watches, panic pendants, etc.

Remote Supports involve the use of high-tech devices that use two-way, real-time communication in the individual's home or community which allows a professional (e.g., an employee, contractor, or consultant) who is offsite to monitor and respond to the individual's needs. Interaction with the professional who is monitoring and responding occurs as needed as part of remote supports but is not the main function of the service. The purpose of remote supports is to assist individuals to obtain and/or maintain their independence and safety within their home and community and decrease their need for assistance from others. Remote Supports are not recommended for individuals under the age of 16.

## REMOTE SUPPORTS REQUIREMENTS FOR ALL RESIDENTIAL PROVIDERS

Remote supports are fully integrated into the individual's overall system of support using person-centered planning. Prior to implementing remote supports as part of the residential service, the residential provider must discuss the following with the individual, persons designated by the individual, and other service plan team members to determine the appropriateness of this service delivery method:

- An evaluation plan that, at a minimum, includes:
  - The need(s) of the individual that will be met by the remote supports
  - The equipment and/or devices that will be used and the individual's control over the equipment and/or devices. The individual's control over the equipment will be determined on a case-by-case basis depending on the device(s)/equipment used and the individual's needs
  - How the remote supports will ensure the individual's health, welfare, and independence
  - The training needed to successfully utilize the technology. This includes training the individual and applicable professionals on the equipment and/or devices that will be used; and
  - The back-up plan that will be implemented should there be a problem with the remote supports, including the technology used.
- An outcome monitoring plan.
- The impact the remote supports will have on the individual's privacy, including whether devices and/or equipment used facilitate each individual's right to

privacy of person and possessions. This information must be provided to the participant in a form of communication understood by the individual. After this has been completed, the residential provider must then obtain either the individual's consent in writing or the written consent of a legally responsible party for the individual. Documentation of participant consent produced by the provider is acceptable if the individual/legally responsible party is able to consent but unable to do so in writing. This process must be completed prior to the utilization of remote supports and any change that impacts the participant's privacy.

Recommendations regarding person-centered planning; including back-up plans and factors to consider regarding the individual's privacy and control over the devices or equipment, are contained in the Residential Technology Evaluation Tool (Attachment 1).

The residential provider is required via licensing and program-operational regulations to actively provide each individual the necessary support to make choice and understand their rights under the regulations, including the right to choose or decline remote supports.

Residential providers are also responsible for ensuring that any professionals rendering remote supports receive orientation and annual training on topical areas outlined in regulations (55 Pa. Code §§6100.142 (b), 6100.143(c), 6400.51(b), 6400.52(c), 6500.47(b). and 6500.48(b)). Professionals rendering remote supports do not have to complete any specific number of orientation or annual training hours on these topical areas. The residential provider must ensure that the orientation and annual training enables professionals to render remote supports in a manner that protects each individual's health and safety and meets all applicable regulatory and programmatic requirements.

## **ADDITIONAL REQUIREMENTS FOR RESIDENTIAL SERVICES PROVIDED THROUGH THE CONSOLIDATED WAIVER, COMMUNITY LIVING WAIVER, ADULT AUTISM WAIVER OR BASE FUNDING**

Providers that use assistive technology or remote supports as part of Residential Habilitation, Life Sharing, and/or Supported Living services must continue to meet all requirements in the waivers and in 55 Pa. Code Chapter 6100 (relating to Services for Individuals with and Intellectual Disability or Autism). The method of service delivery is not related to waiver or regulatory compliance; the responsibility to comply is the same regardless of whether the service is rendered in-person or through the use of technology.

Remote supports rendered as part of Residential Habilitation, Life Sharing, or Supported Living services must enhance or increase the individual's independence, reduce the participant's need for direct support, and comply with 42 CFR 442.301(c)(4)(vi)(A) through (D) related to privacy, control of schedule and activities and access to visitors. Remote supports are intended to reduce the individual's need for direct support that is available as part of the residential service. As such, **remote supports are an alternative to in-person staffing that is built into the residential service rates and cannot be authorized as a discrete service.** However, the assistive technology needed to render remote supports to a specific individual as part of the residential service may be authorized as a discrete service under the Assistive Technology service definition. In other words, providers of Residential Habilitation, Life Sharing, and/or Supported Living services:

- May only submit claims for Residential Habilitation, Life Sharing, or Supported Living service when remote supports are rendered and may **not** submit claims for Remote Supports as a discrete service under Assistive Technology.

- May submit claims for the assistive technology needed to provide remote supports to a specific individual through the Assistive Technology procedure codes.

When a provider contracts with a separate entity to render remote supports as part of the residential service, the residential provider is responsible for ensuring that the contracted entity meets qualification, waiver, and regulatory requirements for the delivery of residential services. The Consolidated and Community Living Waivers include the following qualification requirements when rendering remote supports to participants:

- Effective June 30, 2022 the residential provider must have a supportive technology professional (direct, contracted, or in a consulting capacity) available who has either a current Assistive Technology Professional certificate from Rehabilitation Engineering and Assistive Technology Society of North America (RESNA) or Enabling Technology Integration Specialist SHIFT certification. The supportive technology professional is responsible for:
  - Completion of evaluations of participants' assistive technology needs, including a functional evaluation of the impact of appropriate assistive technology and remote support.
  - Completion of an evaluation plan that includes the needs of the participant that will be met by the remote support technology and remote support; how the technology and remote support will ensure the participant's health, welfare, and independence; the training needed to utilize the technology and the back-up plan that will be implemented if there is a problem with the technology and/or remote support.

- Informing the participant, and anyone designated by the participant, of what impact the remote support technology and remote support will have on the participant’s privacy. This information must be provided to the participant in a form of communication understood by the participant. The residential provider must obtain either the participant’s consent in writing or the written consent of a legally responsible party for the participant. This process must be completed prior to the utilization of remote support technology and remote support, and any time there is a change to the remote support technology devices or remote support.
- Ensuring that the remote support technology is in working order.

## **DETERMINING IMPACTS OF ASSISTIVE TECHNOLOGY OR REMOTE SUPPORTS ON INDIVIDUAL’S PRIVACY IN ALL RESIDENTIAL SETTINGS**

Any assistive technology utilized, or remote supports provided must ensure each individual’s right to privacy of person and possession<sup>2</sup>. There is no single answer that will definitively determine whether an individual’s privacy will or may be violated because each situation where privacy could be violated is unique. The only way to know whether a violation of privacy will or may occur is to collect information on a variety of factors specific to each situation and analyze them as a collective whole.

In general, the factors to be considered include:

- Was the individual<sup>3</sup> informed that the device and/or remote supports will be used?

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<sup>2</sup> 55 Pa. code §6100.182(h), §6400.32(h) and §6500.32(h)

<sup>3</sup> The term “individual” as used in this guidance includes substitute decision-makers when the individual is unable to consent due to an inability to understand the concept of consent.

- Was the individual educated about why the device and/or remote supports will be used?
- Did the individual consent to the specific location and use of the device and/or remote supports?
- Can the individual control the device?
- What person-centered planning activities were performed that reflect the needs and goals related to the device and/or remote supports?
- Where will the device be located and what is the purpose?
  - NOTE: Video cameras/monitors may be permitted in bedrooms and bathrooms when an evaluation of multiple factors show that the technology facilitates each individual's right to privacy of person and possessions.
- What type of training and guidance will be used to ensure the device is used as intended?
- How will data captured by the device be retained?
- Who has access to the data captured by the device?

Other factors to consider include whether the device:

- Has been recommended or ordered by a medical professional.
- Will only be used at certain times, such as during sleeping hours.
- Is an alternative to observation by a professional such as in-person supervision
- Is addressed in the individual plan.

- Is utilized in a manner that is consistent with the provider’s policies and procedures.
- Has been reviewed by a human rights team.
- Has technological controls that enhance privacy protections such as thermal imagery or artificial intelligence designed for privacy protections.

ODP has developed a Residential Technology Evaluation Tool to assist providers in determining whether a privacy violation will or may occur. The tool is not a required form although ODP strongly recommends its use. Providers may develop their own tool to determine whether a privacy violation will or may occur. The Residential Technology Evaluation Tool is attached to this announcement as Attachment 1.

## **SUPPORT AND ASSISTANCE**

Providers are encouraged to contact ODP for support and assistance in determining whether a situation or device may constitute a violation of an individual’s privacy. Questions may be directed to the ODP Regulatory Administration Unit at [RA-PW6100REGADMIN@pa.gov](mailto:RA-PW6100REGADMIN@pa.gov) or to the appropriate ODP Regional Office.

ODP is holding a webinar to discuss requirements and best practices for the use of Assistive Technology and Remote Supports in residential settings. The date, time, and link for registration to attend the webinar are as follows:

January 18, 2022

10:00 AM to 11:00 AM

<https://attendee.gotowebinar.com/register/185315407835417615>