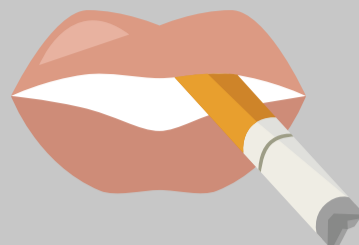


Let's Talk About Cell Phones, Cigarettes and Snacks!

Member Rights
Related to Personal
Property



First things first

This learning material is not meant to be all inclusive. Member rights will never include a "one-size-fits-all" approach. The content in this learning material is meant to share examples to showcase considerations. If you have questions about member specific scenarios, please reach out to Inlusa's Member Relations department.

Things to consider

While member rights don't dictate that member's have a right to cell phones, cigarettes or soda pop, these topics, and those similar, fall within the member's right to their personal property.

These items become a member's personal property when the member purchases them for themselves. Once this happens, these items cannot be removed or taken away without following the proper process of rights limitations and denial.

Additionally, locking personal property items away from a member is not a violation, restricting or limiting access to those items is a violation. Items can be locked, as long as the member may have access to the item at any time without having to meet additional criteria to earn access.

Let's explore some examples ...



Joanne owns a cell phone that she pays for each month. Joanne is at risk of losing her job due to difficulty getting up and getting to work in the morning as she is spending most of the night texting and not getting enough sleep. Joanne's guardian tells the Adult Family Home (AFH) that Joanne needs to turn her cell phone in every night so she can get enough sleep and maintain employment. The AFH follows the guardians direction. Is this a member rights violation?

Yes. Although intentions were good, this is a violation of Joanne's rights. The cell phone is considered personal property and cannot be restricted unless there is a significant health or safety concern. Being over tired or losing a job are natural consequences and not a significant health or safety concern.

Hannah is able to use her personal cell phone but only gets to after she has "earned" time on it. The AFH she lives at utilizes an incentive program in an effort to reduce what they feel are negative behaviors. Is this a member rights violation?

Yes. An incentive program is only appropriate when the member is earning something they don't already own. Members cannot earn their own belongings as they already own them and have the right to use them.

Jake lives in an AFH and purchases his own cigarettes. There is an approved House Rule that all smoking materials are kept with staff and all residents are required to ask for them due to fire safety concerns. Because staff control when Jake gets his cigarettes, they use it as an incentive. Some days, Jake does not like to shower, despite recommendations to do so. Jake's AFH will only give him 3 cigarettes a day unless he showers. If Jake showers, the AFH will give him 5 more for that day. Is this a member rights violation?

Yes. The violation occurs because Jake has a right to determine when or if he will shower and has the right to smoke (use personal property) regardless of this decision.

Mark receives \$100 a month from his rep payee for spending which includes purchasing cigarettes, money for outings, etc. In the past, Mark has spent all of his money on cigarettes before the end of the month and had no money for outings and was getting cigarettes off of other residents. Mark agreed that he would have one cigarette an hour during the daytime and return his lighter to staff at bedtime (for safety reasons). Mark has changed his mind and now wants to use all of his spending money to purchase cigarettes and doesn't agree to one cigarette an hour but instead wants to have cigarettes whenever he wants. Can staff enforce the hourly schedule because Mark has already agreed to this?



No. Ultimately, the cigarettes are Mark's personal property and the hourly schedule can't be enforced if Mark doesn't agree with it.

Connor purchases chips, candy bars, and soda with his own funds. Connor's guardian directs the facility to remove all snacks from Connor's room and keep them in a locked cabinet. Connor is given 1 soda and 1 snack choice per day. Connor is not in agreement with this plan and would like to have 3 sodas and snacks per day. Is this a member rights violation?

Yes. The facility may not keep Connor's personal property in a locked cabinet and restrict his access to it. Connor may choose to limit the amount of snacks he has per day and may request assistance from the facility by keeping the snacks in a secure cabinet. However, the facility must provide snacks upon Connor's request.

Carrie purchases various snack items with her own funds. The facility requires all snack items to be kept in a secure cabinet to keep other residents from having access to Carrie's personal snacks. The facility has an incentive program where Carrie must complete specific activities of daily living each day in order to get an ice cream treat after dinner. This is outside of her snacks. Is this a member rights violation?

No. As long as the facility provides Carrie access to her personal snacks, upon request, they are not violating Carrie's rights. The incentive program provides an incentive that would be in addition to Carrie's snacks.

