

# Home and Community Based Settings Rule Heightened Scrutiny Evidentiary Package

On March 17, 2014, new federal Medicaid rules for Home and Community Based Services (HCBS) went into effect. The rules impact many parts of HCBS. One of the most important topics is the places where HCBS can be provided.

Because HCBS programs are offered as alternatives to nursing and intermediate care facility services, the new rules make sure that HCBS are provided in settings that are not institutional in nature. To follow this rule, states must make sure that HCBS settings are part of a larger community, people are able to have choices about their service settings, and that people are assured their rights to privacy, dignity and respect.

States must evaluate their HCBS programs to determine the level of compliance with the new rules. The setting indicated on this form has been identified as requiring to go through the heightened scrutiny process as part of the compliance process.

Additional information on Heightened Scrutiny can be found here: [HCBS Settings Rule: Heightened Scrutiny](#)

## Setting Information

<b>Site Name:</b>	Apple Village Assisted Living	<b>Site ID:</b>	178
<b>Site Address:</b>	2600 E Hobbs View Cir Layton, UT 84040		
<b>Website:</b>	<a href="https://www.cozyretire.com/our-communities/apple-village-in-layton/">https://www.cozyretire.com/our-communities/apple-village-in-layton/</a>		
<b># of Individuals Served at this location regardless of funding:</b>	N/A	<b># of Medicaid Individuals Served at this location:</b>	49
<b>Waiver(s) Served:</b>		<b>HCBS Provider Type:</b>	
<input type="checkbox"/> Acquired Brain injury <input type="checkbox"/> Aging Waiver <input type="checkbox"/> Community Supports <input type="checkbox"/> Community Transition <input checked="" type="checkbox"/> New Choices <i>Description of Waivers can be found here:</i> <a href="https://medicaid.utah.gov/ltc/">https://medicaid.utah.gov/ltc/</a>		<input type="checkbox"/> Day Support Services <input type="checkbox"/> Adult Day Care <input checked="" type="checkbox"/> Residential Facility <input type="checkbox"/> Supported Living <input type="checkbox"/> Employment Preparation Services	
<b>Heightened Scrutiny Prong:</b>			
<input type="checkbox"/> Prong 1: Setting is in a publicly or privately operated facility that provides inpatient institutional treatment  <input type="checkbox"/> Prong 2: Setting is in a building on the grounds of, or immediately adjacent to, a public institution  <input checked="" type="checkbox"/> Prong 3: From the initial assessment, the setting was found to have the effect of isolating individuals from the broader community. The following is the area that was identified:			
<input checked="" type="checkbox"/> A. Individuals have limited, if any, opportunities for interaction in and with the broader community and /or the setting is physically located separate and apart from the broader community and does not facilitate individual opportunity to access the broader community and participate in			

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	<p>community services consistent with their person centered service plan</p> <p><input type="checkbox"/> B. The setting restricts individuals choice to receive services or to engage in activities outside of the setting</p> <p><input checked="" type="checkbox"/> C. The setting has qualities that are institutional in nature. These can include:</p> <ul style="list-style-type: none"> <li>● The setting has policies and practices which control the behaviors of individuals; are rigid in their schedules; have multiple restrictive practices in place</li> <li>● The setting does not ensure an individual’s rights of privacy, dignity, and respect</li> </ul>
<b>Onsite Visit(s) Conducted:</b>	2019 (onsite),06/24/2021 (Virtual), 12/7/22 (virtual)
<b>Description of Setting:</b>	
This is a residential setting that is located in the suburbs, within a couple miles of a golf course, a hiking trail, convenience stores, and restaurants.	
<b>Current Standing of Setting:</b>	
<p><input type="checkbox"/> Currently Compliant: the setting has overcome the qualities identified above</p> <p><input checked="" type="checkbox"/> Approved Remediation Plan: the setting has an approved remediation plan demonstrating how it will come into compliance. The approved timeline for compliance is: A visit was conducted on 12/7/22 any remaining items will be validated by 1/31/23</p>	

## Evidence the Setting is Fully Compliant or Will Be Fully Compliant

<b>Prong 1: The setting is in a publicly or privately operated facility that provides inpatient institutional treatment; the setting overcomes this presumption of an institutional setting.</b>	
<b>Compliance:</b>	<input type="checkbox"/> Met <input type="checkbox"/> Remediation Plan demonstrating will be compliant <input checked="" type="checkbox"/> Not Applicable

<b>Prong 2: The setting is in a building on the grounds of, or immediately adjacent to, a public institution; the setting overcomes this presumption of an institutional setting.</b>	
<b>Compliance:</b>	<input type="checkbox"/> Met <input type="checkbox"/> Remediation Plan demonstrating will be compliant <input checked="" type="checkbox"/> Not Applicable

<b>Prong 3 A: 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.</b>	
<b>Compliance:</b>	<input type="checkbox"/> Met <input checked="" type="checkbox"/> Remediation Plan demonstrating will be compliant
<b>Summary:</b>	<p><b>Onsite Visit Summary (2019):</b> Once a month there is a big activity where families are invited to attend. The area they are located has access to shopping and other community locations. Unsure if there is a formal way for individuals to give feedback on activities.</p> <p><b>Remediation Plan Summary:</b> The provider has been focused on meeting individually with the residents, they just been spending time with them seeing what their concerns are. They are almost through all of the</p>

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residents at this point. As they have gone along and done this I have been explaining the community meetings and what they are meant for. They have been asking them if anybody would like to be part of a community council board. They have not had any takers on that. They will complete talking with all residents individually by the end of the month. They will then do another community meeting with everybody and see how it works.

## **Onsite Visit Summary (06/24/2021):**

The setting has a formal process to solicit feedback from residents on the settings activity schedule. The activity schedule is created by the activity director. The activity director solicits feedback through monthly resident council meetings, one-on-one conversations, and a suggestion box. The setting needs to provide a variety of activities that match the diversity of age and ability of its residents. The setting needs to ensure that activities are available at a variety of times so that residents who want to can attend. Feedback can be solicited during the Resident Council meeting and during the Activity Directors one-on-one with special attention to residents who do not participate or attend the meeting.

The setting must have a process to notify residents how they are responding to their recommendations and input. For example, this can be a standing agenda item on the following resident council meeting.

The majority of activities provided are onsite activities and the setting uses reverse integration to provide community access.

The Setting must do a better job at facilitating opportunities for community integration. The setting must demonstrate a process to address community integration for individuals that do not have natural supports to take them into the community.

Residents are able to come and go from the setting when they choose and can go into the community daily if they have the resources to do so.

Individuals utilize NCW non-medical transportation and go places with friends and family.

## **Remediation Plan Summary:**

The Activities Dept will post upcoming activities that are occurring in the community, which clients can sign up for and transportation will be arranged to accommodate. Meetings with management were canceled due to a lack of participants, to still allow individuals the opportunity to voice any concerns a form will be passed out for clients to fill if any concerns arise. Restrictions will be removed for assigned seating.

## **Onsite Visit Summary (12/7/2022):**

During the visit we spoke with an individual who doesn't participate in the provider activities but is able to get out and participate in his personal interests with friends and other people who support them. We spoke with an individual that isn't able to use the facility van because their motorized wheelchair doesn't fit. Several individuals shared that they don't know a way to easily share feedback with staff members or leadership outside of casual chats. They aren't aware of a resident council or comment box to give feedback on activities and needs. Staff provides a bulletin board that is updated with activities in the community. Staff has an interest questionnaire for new residents and that they have conversations with people regarding what they would like.

## **Remediation Plan Summary:**

The provider will submit documentation on how they facilitate transportation for individuals who aren't able to use the facility van. They will ensure these individuals have transportation

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	<p>access and are able to access the community as much as they desire. Additionally the provider will provide documentation that individuals have a formal process for sharing feedback and that they are made aware of this process.</p> <p><b>Policy/Document Review:</b> The following were reviewed for compliance:</p> <ul style="list-style-type: none"> <li>● Menu</li> <li>● Alternative Menu</li> </ul>
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<b>Prong 3 B: The setting is selected by the individual from among setting options, including non-disability specific settings.</b>	
<b>Compliance:</b>	<input checked="" type="checkbox"/> Met <input type="checkbox"/> Remediation Plan demonstrating will be compliant
<b>Summary:</b>	<p><b>Onsite Visit Summary (2021):</b> The setting does not restrict access to non-disability settings. The setting has an admission process that assesses individuals' needs and preferences and regularly reassesses to ensure services are provided in a person-centered manner.</p>

<b>Prong 3 C: The setting optimizes, but does not regiment individual initiative, autonomy, and independence in making life choices. The setting ensures an individual's rights of privacy, dignity, respect, and freedom from coercion and restraint. The setting ensures the individual has the freedom and support to control his/her own schedule and activities.</b>	
<b>Compliance:</b>	<input type="checkbox"/> Met <input checked="" type="checkbox"/> Remediation Plan demonstrating will be compliant
<b>Summary:</b>	<p><b>Onsite Visit Summary (2019):</b> There are schedules posted on residents doors and individuals are reminded by staff. Each individual has their own room. Staff have a confidentiality agreement. Individual rights are posted. Observed staff knocking before entering rooms Verified that locks are on the doors. Policies are stored at the front desk. There are monthly training meetings to address client needs. Unsure if individuals are able to give feedback on schedules, or meals.</p> <p><b>Remediation Plan Summary:</b> The provider will submit their meal plan and alternate menu. The provider will provide documentation that a process for individuals to give feedback on meals, their schedule, and supports has been implemented.</p> <p><b>Onsite Visit Summary (06/24/2021):</b> Staff are flexible and can meet the individual waking and bathing needs of the residents when requested. The setting must ensure that residents are aware of how to submit input towards the setting menu and and follow up to how input from residents are implemented into the menu must be submitted. Food is available for residents at any time including snacks and drinks. Residents are not allowed in the kitchen area and do not have access to communal refrigerator or microwave. The setting must provide an option for residents to store their own food.</p> <p><b>Remediation Plan Summary:</b></p>

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	<p>Leadership responded that individuals have the right to have refrigerators, microwaves, and Keurig Coffee Makers in their rooms. Residents will be notified of forms that are sent out for menu concerns and then consulted with the dietician before implementing. The Activities Dept will post upcoming activities that are occurring in the community, which clients can sign up for and transportation will be arranged to accommodate. Meetings with management were canceled due to a lack of participants, to still allow individuals the opportunity to voice any concerns a form will be passed out for clients to fill if any concerns arise.</p> <p><b>Onsite Visit Summary (12/7/2022):</b></p> <p>We confirmed that individuals have access to food at all times. This includes meals provided by the facility, access to snacks, and access to prepare meals in their rooms. We confirmed that staff talk to individuals about their schedules and make adjustments on input from individuals. Most individuals indicated that they are able to give feedback on meals to the kitchen staff but it wasn't clear if there was a formal process to give feedback. Staff said they know where to find the care plans for individuals which contain their preferences and that there is a monthly staff meeting where they discuss concerns and individual needs.</p> <p><b>Remediation Plan Summary:</b></p> <p>The provider will provide documentation that individuals have a formal process for sharing feedback and that they are made aware of this process.</p> <p><b>Policy/Document Review:</b></p> <p>The following were reviewed for compliance:</p> <ul style="list-style-type: none"> <li>● Menu</li> <li>● Alternative Menu</li> </ul>
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<b>Overall, the setting enforces the Home and Community-Based Settings Regulation requirements.</b>	
<b>Compliance:</b>	<input type="checkbox"/> Met <input checked="" type="checkbox"/> Remediation Plan demonstrating will be compliant
<b>Summary:</b>	The provider has identified items for remediation to come into compliance.

## Input from Individuals Served and Staff

<b>Individuals Served Summary:</b>	<p><b>Summary of interviews (2019):</b></p> <ul style="list-style-type: none"> <li>● An individual said their family comes and picks them up for activities.</li> <li>● An individual said they visited a few facilities and liked this location.</li> <li>● An individual said they don't want to go on the activities from the provider.</li> <li>● An individual said they don't want to participate in meal planning.</li> <li>● An individual said that the staff is respectful.</li> <li>● An individual said they can eat in their room.</li> <li>● An individual said it is staffs job to do laundry.</li> </ul> <p><b>Summary of interviews (2021):</b></p> <ul style="list-style-type: none"> <li>● One Resident reported that there is no way to provide feedback for the menu.</li> <li>● Residents report that there is no alternative menu.</li> <li>● Residents report that the food is bland and catered to the oldest residents. They also reported that the food does not meet dietary needs of individuals (diabetes, allergies)</li> </ul>
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	<ul style="list-style-type: none"> <li>● One resident reported that the setting’s van lift does not support both them and their wheelchair.</li> <li>● One resident reported that they do not feel like anything that is suggested at the Resident Council meeting is implemented.</li> <li>● One resident reported that the activities were always scheduled on the same days (based on then there was enough staff) which occurred while they were receiving services and therefore could not attend. They also are not able to attend Resident Council meetings.</li> <li>● One resident reported that the activities were catered to older and disabled residents.</li> </ul> <p><b>Summary of interviews (2022):</b></p> <ul style="list-style-type: none"> <li>● An individual said the provider doesn’t have a vehicle that can accommodate motorized wheelchairs.</li> <li>● Individuals indicated that they don’t have a formal way to share feedback on activities, needs and meals.</li> <li>● Individuals indicated that they have casual conversations with staff about activities, needs, and preferences.</li> <li>● An individual said they don’t participate in the provider planned activities but get out in the community with help from their natural supports.</li> <li>● An individual said staff takes care of their needs and a nurse comes by twice a day.</li> <li>● An individual indicated that they don’t have any restrictions.</li> <li>● An individual indicated that even though sometimes they don’t care for the food there is an alternative menu and the cooks are great at taking their feedback.</li> <li>● An individual interviewed indicated that they are able to use the provider's medical transportation.</li> </ul>
<b>Staff Summary:</b>	<p><b>Summary of interviews (2019):</b></p> <ul style="list-style-type: none"> <li>● Staff said they try to encourage people to come to events.</li> <li>● Staff said residents invite them into their rooms to help with personal care.</li> <li>● Staff said that individuals go on bus rides, to the fair, movies, and shopping.</li> <li>● Staff said that electronic schedules are posted in multiple areas and are posted in each room.</li> </ul> <p><b>Summary of interviews (2021):</b></p> <ul style="list-style-type: none"> <li>● Staff reported that residents choose a restaurant to go to but are only allowed to do take-out and bring it back to the setting.</li> <li>● Leadership reported that activities included scenic van rides, picnic in park, and target shooting.</li> <li>● Staff report that they have consistent and ongoing training. They also report that there is a monthly employee meeting that addresses activities, individual needs, and additional training.</li> </ul> <p><b>Summary of interviews (2022):</b></p> <ul style="list-style-type: none"> <li>● Staff indicated that they plan their housekeeping activities based on when the individuals want. They indicated that there are monthly staff meetings and they are trained on individual preference relating to housekeeping.</li> </ul>

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	<ul style="list-style-type: none"> <li>● Staff indicated that individuals have access to snacks at any time and that simple meals can be provided in between scheduled meal times.</li> <li>● Staff indicated that they know where to find documentation regarding individuals preferences for meals and personal preferences. They have a monthly staff meeting where resident needs and concerns are discussed.</li> <li>● Staff interviewed said they provide a bulletin board with activities in the community. They have a questionnaire for individuals to share their interests and the staff like to talk with people one on one to encourage them to participate in activities or get feedback regarding activities. They also have an activities calendar.</li> </ul>
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<b>Ongoing Remediation Activities</b>	
Current Standing: <input type="checkbox"/> Currently Compliant <input checked="" type="checkbox"/> Approved Remediation Plan	
<b>Continued Remediation Activities</b>	The provider has identified items for remediation to come into compliance and the State will validate these items.
<b>Ongoing Monitoring Activities</b>	<p>The State will use the following tools to ensure settings continue compliance with the Settings Rule criteria:</p> <ul style="list-style-type: none"> <li>● Conducting individual served experience surveys</li> <li>● Addressing settings compliance during the annual person centered service planning process</li> <li>● Ongoing provider training and certification</li> <li>● Monitoring through critical incident reporting</li> <li>● Case Management/Support Coordinator visit monitoring</li> <li>● HCBS Waiver Reviews/Audits</li> </ul>

## Summary of Stakeholder Workgroup Comments Received and State Response:

<b>Stakeholder Workgroup Review: January 3, 2023 - January 18, 2023</b>	
<b>General Comments Received</b>	
<b>Comment:</b>	The materials provided by the State in the newly-released evidentiary packets (“batch 5”) raise concerns about whether the identified settings currently demonstrate the qualities of HCBS. In most instances, the state has only completed a virtual review instead of an in-person visit. In our experience as the P&A, it is difficult to accurately assess characteristics of an institution as well as to communicate effectively with waiver participants without an in-person visit.
<b>Response:</b>	The State has a comprehensive virtual validation visit process in place to determine HCBS Settings Rule compliance. If at any time the State determines that the virtual process is not sufficient for a specific setting, then the State will make the determination that an in-person visit is required at that time. Once a setting has completed its remediation and the State has validated its compliance with the HCBS settings rule, it moves to the ongoing monitoring process.
<b>Comment:</b>	

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In many instances, the packages state that the setting is compliant based on a remediation plan and indicate that a validation visit will be completed in the future. Many of the reviews state that individuals are not getting into the community to the degree they would wish and that there are still institution-like restrictions on individuals in the settings. It is difficult for stakeholders to provide feedback on whether a setting has the characteristics of an HCBS setting if it is still in the process of remediating. The remediation plans seem to lack the detail necessary to assist a setting with becoming compliant and the short time frame until the final compliance deadline leads us to believe that these sites will not remediate in time.

**Response:**

Settings must demonstrate compliance or demonstrate a plan along with the State's oversight to ensure completion of actions to certify they will become compliant prior to March 17, 2023 before the State submits them through the heightened scrutiny process.

**Comment:**

The reviews in many instances lack the detail necessary to determine whether a setting is institutional/segregating. For example, there are reviews of 14c certificate holders that do not indicate whether the setting will pay subminimum wage moving forward. Reviews indicate that individuals access the community, but in many instances don't specify how large the groups are, what types of activities they engage in and the frequency with which activities occur. Some reviews mention work groups/work enclaves, but do not specify what type of work individuals engage in, where people work and how large the work groups are. The reviews frequently say that the setting does not restrict access to the community, that community amenities are within "miles" and that there is access to public transportation, but often do not specify how the facility supports individuals to access these amenities/public transportation.

**Response:**

While the State agrees that certain criteria can create concerns with compliance, several elements described do not determine on their own whether a setting meets or fails requirements. Individual settings are reviewed and assessed on their merit. For example, payment of sub-minimum wage work or group sizes in and of themselves are not including or excluding criteria. The state determines compliance based on factors such as person centered planning, individual choice and autonomy, individualized schedules, and individuals self-reporting they are accessing the community at the level that they desire.

**Comment:**

We are very concerned about how the state has handled non-residential settings, particularly large day programs and sheltered workshops. These reviews do not demonstrate that the state has ensured that these particularly problematic settings have remediated sufficient to comply with the settings rule as well as title II of the ADA and Olmstead. Again, many final reviews have not been completed in person, and most frequently the state is submitting sites that have submitted a remediation plan but have not been validated as remediated.

**Response:**

Settings must demonstrate compliance or demonstrate a plan along with the State's oversight to ensure completion of actions to certify they will become compliant prior to March 17, 2023 before the State submits them through the heightened scrutiny process. The State has a comprehensive virtual validation visit process in place to determine HCBS Settings Rule compliance. If at any time the State determines that the virtual process is not sufficient for a specific setting, then the State will make the determination that an in-person visit is required at that time. Once a setting has completed its remediation and the State has validated its compliance with the



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HCBS settings rule, it moves to the ongoing monitoring process. While the State does acknowledge that activities for remediation extended into March 2023, it does not believe strategies deviated from its Statewide Transition Plan, or that inappropriate methods were used in validating compliance. The State also acknowledges that Settings compliance is not a one time activity and the usage of ongoing monitoring will aid to reinforce core tenants of the Rule as well as the development and dissemination of best practices. The State encourages the submission of providers who are believed to be non-compliant with requirements of the Settings Rule, including the elements/criteria which are not sufficiently meeting expectations.

**Comment:**

Reviews indicate that individuals are still being segregated by “level of functioning” and even by whether an individual resides in an ICF or an HCBS setting.

**Response:**

The State agrees that settings identified as having this concern are institutional and segregating in nature. The purpose of the heightened scrutiny process was to identify settings that were institutional and segregating in nature and go through the process of showing how they overcame those qualities. Settings submitting for heightened scrutiny were required to remediate through training of staff, provide evidence of compliance, and demonstrate compliance through validation that they were compliant in these areas of concern.

**Comment:**

Reviews do not indicate that the EPR codes which contemplate meaningful, individualized, time-limited pre-vocational programs are being implemented in Workshops. Reviews do not indicate that individuals are spending at least 20% of their time in the community engaging in activities chosen by the individual. Reviews do not (for the most part) indicate whether or not the provider is continuing to pay subminimum wage. Reviews do not consider what type of work individuals engage in the setting and whether or not that work is chosen by the individual. Frequently, specificity as to how many individuals are working in a group is not given. Frequently, information about how settings are supporting individuals to gain competitive, integrated employment as guaranteed by the settings rule is not given.

**Response:**

As with all settings, the State’s review was for the purpose of determining whether the tenants of the Settings Rule had been met, regardless of which specific services were delivered at the location. The State has separate compliance monitoring for the appropriate authorization of Employment Preparation Services and the delivery of those services by providers.

**Comment:**

Frequently, reviews indicate that there are still restrictive practices in the settings indicating an institution-like environment.

**Response:**

The State agrees that many reviews indicated settings still had restrictive practices in place indicating an institution-like environment as they had not yet gone through their final validation process at the time they went out for heightened scrutiny. The State has spent considerable time with settings and providers providing technical assistance beyond what was documented in their remediation plans to remediate their institutional and segregating characteristics to come into compliance with the rule.

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## Summary of Public Comments Received and State Response:

**Public Comment Period:** January 2, 2023 to February 3, 2023

### ***Setting Specific Comments:***

#### ***Comment:***

One commenter stated Apple Village Assisted Living, is an assisted living facility in Layton, Utah. The materials provided by the State in the evidentiary packet do not demonstrate that the identified setting currently demonstrates the qualities of HCBS. The validation packet states that the facility does not regularly facilitate opportunities for community integration and does detail what opportunities the setting now provides and how often individuals go into the community. The packet also details that the proposed remediation plans have not successfully facilitated opportunities for community integration and there are still obstacles for residents in the setting. The packet only states that a final validation will take place. For stakeholders to provide effective feedback, the state needs to present stakeholders with final validations of compliance with the rule rather than un-validated remediation plans. Not doing so does not provide appropriate notice to community partners of the steps the state has taken to ensure that settings are fully in compliance with the settings rule.

#### ***Response:***

Settings must demonstrate compliance or demonstrate a plan along with the State's oversight to ensure completion of actions to certify they will become compliant prior to March 17, 2023 before the State submits them through the heightened scrutiny process. As indicated on the heightened scrutiny package, a validation visit was conducted on 11/16/22 to ensure that the remediation plan was implemented and the setting was compliant in the areas indicated. The setting was determined compliant at the validation visit. During the visit, interviews were conducted with both staff and individuals being served. The State confirmed that individuals have access to food at all times. This includes meals provided by the facility, access to snacks, and access to prepare meals in their rooms. We confirmed that staff talk to individuals about their schedules and make adjustments on input from individuals. Individuals indicated that they are able to give feedback on meals to the kitchen staff. Staff said they know where to find the care plans for individuals which contain their preferences and that there is a monthly staff meeting where they discuss concerns and individual needs. Additionally, the provider submitted documentation on how they facilitate transportation for individuals who aren't able to use the facility van. The setting ensures individuals have transportation access and are able to access the community as much as they desire. Based on the remediation that was provided, the setting has been deemed compliant.

### ***General Comments Received:***

#### ***Comment:***

As the Protection and Advocacy agency for people with disabilities for the State of Utah, the Disability Law Center ("DLC") is uniquely suited to provide assistance and input during this process. Based on our own observations as the P&A as well as our evaluation of the state's assessments of settings, the state did not engage in a sufficient assessment process or provide adequate support to bring settings into compliance with the rule prior to the March 17, 2023 deadline. We are concerned that HCBS waiver dollars will continue to be spent on segregated, institutional settings despite the state's obligations under the HCBS settings rule, Title II of the ADA and Olmstead. This heightened scrutiny evidentiary package demonstrates these ongoing concerns as detailed below.

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**Response:**

While the State does acknowledge that activities for remediation extended into March 2023, it does not believe strategies deviated from its Statewide Transition Plan, or that inappropriate methods were used in validating compliance. The State also acknowledges that Settings compliance is not a one time activity and the usage of ongoing monitoring will aid to reinforce core tenants of the Rule as well as the development and dissemination of best practices. The State encourages the submission of providers who are believed to be non-compliant with requirements of the Settings Rule, including the elements/criteria which are not sufficiently meeting expectations.

## Summary of Stakeholder Workgroup Recommendation:

**Stakeholder Workgroup Review:** January 3, 2023 - January 18, 2023

We only got a response from one workgroup member. Their comments are noted above.

## Utah's Recommendation

**Recommendation: Compliant**

**At the time the heightened scrutiny packet was submitted for public comment, the State had not completed the final validation visit. The State has since completed the final validation visit and determined the setting has overcome the effect of isolating individuals from the broader community and is in compliance with the HCBS Settings Rule.**