

# Home and Community Based Settings Rule Heightened Scrutiny Evidentiary Package

## Setting Information

<b>Site Name:</b>	St. Joseph Senior Apartments	<b>Site ID:</b>	151
<b>Site Address:</b>	451 E Bishop Federal Lane, Salt Lake City, UT 84115		
<b>Website:</b>	<a href="https://stjosephliving.com/">https://stjosephliving.com/</a>		
<b># of Individuals Served at this location regardless of funding:</b>	59	<b># of Medicaid Individuals Served at this location:</b>	2
<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 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	
<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 checked="" type="checkbox"/> Prong 2: Setting is in a building on the grounds of, or immediately adjacent to, a public institution <input type="checkbox"/> Prong 3: Setting has the effect of isolating individuals from the broader community <ul style="list-style-type: none"> <li><input 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 community services consistent with their person centered service plan</li> <li><input type="checkbox"/> B. The setting restricts individuals choice to receive services or to engage in activities outside of the setting</li> <li><input type="checkbox"/> C. The setting has qualities that are institutional in nature. These can include:               <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> </li> </ul>			
<b>Onsite Visit(s) Conducted:</b>	8/16/2019		
<b>Description of Setting:</b>			
<p>The setting is an independent living facility with full apartments. The setting visually looks like an apartment building. It is located on the grounds of/adjacent to a public institution. It is on the same property as St. Joseph Villas which is a skilled nursing facility (SNF) and assisted living facility.</p> <p>The property shares the same parking lot and is owned by the same entity (Ensign). Prior to 2012 both facilities were owned by the same entity. In 2012, they separated and the independent living had a different ownership. On 10/1/2019, Ensign bought back the independent living facility.</p>			

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The setting is located in Salt Lake City near to community resources such as other private residences, churches, restaurants, and other retail businesses.

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

**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.**

**Compliance:**     Met     Remediation Plan demonstrating will be compliant     Not Applicable

**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.**

**Compliance:**     Met     Remediation Plan demonstrating will be compliant     Not Applicable

**Summary:**

**Onsite Visit Summary:**  
It was found that residents can come and go at any time and they are able to go to the SNF facility independently. There are residents that are still able to drive and oftentimes will drive others in the facility if needed. The setting facilitates transportation for those that cannot or do not drive. Public transportation is available close by and residents use transportation through the New Choices Waiver (NCW) and taxi services as well. Individuals can go out daily if they desire. The setting schedules a minimum of three community activities monthly, this is based solely off of resident input and increases if there is a desire. Since this is an independent living facility, most residents have their own schedule and do not participate in the facility activities.

**Interconnectedness between the institution (SNF) and the setting (Independent Living):**

- They are separate buildings with separate entrances
- There is a tunnel in the basement that connects the two buildings, this is open to residents to use
- They share a parking lot
- Human Resources conducts the initial new hire process for all new employees, then each facility is responsible to provide training specific to their facility
- Nurses from the SNF are only utilized at the independent living facility in emergency situations
- Both facilities share maintenance staff
- Individuals are able to utilize the chapel, beauty shop, gift shop, and podiatrist at the SNF (the chapel and gift shop are open to the public as well)
- Meals are prepared by the SNF staff and then delivered to the independent living apartments where the independent living staff assist residents
- Both facilities share a van for transportation and they must schedule use

**Policy/Document Review:**  
The following were reviewed for compliance:

- New Hire Packet
- Training Transcript

**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,**

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<b>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 checked="" type="checkbox"/> Met <input type="checkbox"/> Remediation Plan demonstrating will be compliant
<b>Summary:</b>	<p><b>Onsite Visit Summary:</b> As individuals are of the retirement age, most choose not to work. There are some residents that do maintain a job that reside in the facility. The setting will assist an individual who expresses their desire to volunteer or work with finding opportunities to do so. Residents have control of their personal resources and the setting does not limit what they can spend their money on or when they can spend their money. The setting has a formal process for individuals to give feedback for the facility scheduled activities. The manager also has an open door policy to allow residents to give input or address concerns.</p> <p><b>Policy/Document Review:</b> The following were reviewed for compliance:</p> <ul style="list-style-type: none"> <li>● Activity Calendar</li> </ul>

<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:</b> New Choice Waiver residents choose which setting they want to reside at. This was confirmed through resident interviews. The setting does not restrict access to any non-disability settings and facilitates access when requested.</p> <p><b>Policy/Document Review:</b> The following were reviewed for compliance:</p> <ul style="list-style-type: none"> <li>● Residential Rental Agreement</li> <li>● Resident Rules of Occupancy</li> </ul>

<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 checked="" type="checkbox"/> Met <input type="checkbox"/> Remediation Plan demonstrating will be compliant
<b>Summary:</b>	<p><b>Onsite Visit Summary:</b> There was no personal resident information posted in the facility. Staff were observed to be communicating with individuals with respect. Residents are able to have their own private phones, computers, or other personal devices as they choose. They can decorate their apartments as they choose and are able to lock their apartments and their bathroom doors. Individuals are able to sit anywhere they choose in the dining room and also have the option to prepare meals in their apartments or eat out. There were no restrictions observed or reported. As an independent living facility, rights restrictions are not allowed as a part of the service.</p>

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	Staff were observed to knock and wait for the resident to answer prior to entering their apartments.
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<b>Overall, the setting enforces the Home and Community-Based Settings Regulation requirements.</b>	
<b>Compliance:</b>	<input checked="" type="checkbox"/> Met <input type="checkbox"/> Remediation Plan demonstrating will be compliant
<b>Summary:</b>	Overall, as an independent living facility, the residents are afforded the maximum independence and control of their daily schedule. The residents interviewed are happy with the services they are receiving and chose this setting to live in.

## Input from Individuals Served and Staff

<b>Individuals Served Summary:</b>	<p>See attached questions asked of individuals served interviewed <i>Note: there are only 2 HCBS Waiver residents at this facility, both were interviewed.</i></p> <p><b>Summary of interviews:</b></p> <ul style="list-style-type: none"> <li>● Individuals reported they were able to control their spending money.</li> <li>● One resident reported they still drive and they can go out whenever they want.</li> <li>● The second resident reported they recently moved here from an assisted living facility and they are enjoying the more independent setting and the ability to control their schedule.</li> <li>● The second resident reported they would like to be more involved in the community, but the limitations are due to how many medical appointments they have, they are not imposed by the setting.</li> <li>● There were no concerns reported around privacy, dignity, or respect.</li> <li>● Both residents interviewed reported they had the information they needed to choose who provides their services.</li> <li>● One resident reported they chose this setting because six of their friends were living here.</li> <li>● Both individuals reported they know how to request a new place to live if they wanted.</li> <li>● Overall, residents reported they are happy with the setting and services they receive.</li> </ul>
<b>Staff Summary:</b>	<p>See attached questions asked of direct support staff interviewed</p> <p><b>Summary of interviews:</b></p> <ul style="list-style-type: none"> <li>● There were no concerns identified in the staff interviews.</li> <li>● Staff reported residents make their own schedules and decide what to participate in on a daily basis.</li> </ul>

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

<b>Stakeholder Workgroup Review: March 3, 2021</b>	
<b>Comment:</b> One commenter recommended the state take the specific details out of the individuals served summary to ensure individuals are not able to be identified by the summary provided.	
<b>Response:</b>	

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The State removed some of the detailed information as identified prior to the document being put out for public comment.

## Summary of Public Comments Received and State Response:

**Public Comment Period: March 5 to April 6, 2021**

### General Heightened Scrutiny Process Comments

**Comment:**

One commenter wishes to remind the State of its compliance obligations through the Heightened Scrutiny process. Once a setting is put through the Heightened Scrutiny process, this means the State has determined the setting has the qualities of a home and community-based setting and not of an institution. If a setting is approved through this process, it cannot have any significant changes to the setting, its services, or programming unless it again goes through the Heightened Scrutiny Process. The materials recently provided by the State raise concerns about whether the identified facilities *currently* demonstrate the qualities of HCBS.

**Response:**

Settings must demonstrate compliance or demonstrate a plan in which they will become compliant prior to March 17, 2023 before the State submits them through the heightened scrutiny process.

In the most recent [guidance](#) provided by CMS, CMS requested “that information on settings located in the same building as a public or private institution or on the grounds of or adjacent to a public institution be submitted for heightened scrutiny no later than March 31, 2021.” In previous [guidance](#), CMS indicates that “States may submit to CMS [for heightened scrutiny] those isolating settings that have not completed remediation before July 1, 2020 [now 2021] if a state determines that an isolating setting can implement remediation before the expiration of the transition period [now March 17, 2023], and also determines that the isolating setting can achieve compliance with the settings criteria. Isolating settings that have not completed necessary remediation by July 1, 2020 [now 2021] should be submitted to CMS by the state for a heightened scrutiny review within 120 days (be the end of October 2020 [now 2021]).”

**Comment:**

One commenter recommended the State conduct follow up visits and interviews with participants to ensure their experience in the setting reflects the requirements of the rule.

**Response:**

The State agrees that consumer experience is integral to demonstrate settings compliance and has completed follow up interviews with both participants and staff. This information has been added to the heightened scrutiny documents for each setting that requires remediation.

**Comment:**

One Commenter acknowledged that the State contacted HCBS participants by mail to provide public feedback during this process. They requested, since consumer feedback is vital to the heightened scrutiny process, that the State increases its efforts to gather public comments from consumers.

**Response:**

The State agrees that consumer feedback is an important part of the heightened scrutiny process and will continue its efforts to gather public comments from consumers. In addition to consumer experience interviews conducted and contacting consumers via mail, case coordinators will also be utilized to obtain feedback from those they serve in their settings.

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## Setting Specific Comments

There were no specific comments for this setting.

## Summary of Stakeholder Workgroup Recommendation:

**Stakeholder Workgroup Review:** June 10 to June 24, 2021

The Stakeholder Workgroup recommended that the heightened scrutiny packet is ready to be submitted to CMS (100% of those that responded).

## Utah's Recommendation

### **Date of Recommendation:**

The State has determined the setting has overcome the effect of isolating individuals from the broader community by being a setting that is in a building on the grounds of, or immediately adjacent to, a public institution and is in compliance with the HCBS Settings Rule.