

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

Site Name:	Best Assisted Living (Best AL)	Site ID	325
Site Address:	2499 East CHARROS Road		
Website:	https://best-assisted-living.webflow.io/		
# of Individuals Served at this location regardless of funding:	4	# of Medicaid Individuals Served at this location:	4
Waiver(s) Served:		HCBS Provider Type:	
<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> https://medicaid.utah.gov/ltc/		<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	
Heightened Scrutiny Prong:			
<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: <ul style="list-style-type: none"> <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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community services consistent with their person centered service plan <input type="checkbox"/> B. The setting restricts individuals choice to receive services or to engage in activities outside of the setting <input checked="" type="checkbox"/> C. The setting has qualities that are institutional in nature. These can include: <ul style="list-style-type: none"> • The setting has policies and practices which control the behaviors of individuals; are rigid in their schedules; have multiple restrictive practices in place • The setting does not ensure an individual’s rights of privacy, dignity, and respect 	
Onsite Visit(s) Conducted:	8/12/19, 09/30/21 (virtual), 9/20/22 (in person), 5/9/23 (in person), 6/15/23 (in person)
Description of Setting:	
Setting is a residential facility. The setting is located in a residential neighborhood. It is a house that does not stand out from any other surrounding houses in the neighborhood.	
Current Standing of Setting:	
<input checked="" type="checkbox"/> Currently Compliant: the setting has overcome the qualities identified above <input 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:	

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:	<input type="checkbox"/> Met <input type="checkbox"/> Remediation Plan demonstrating will be compliant <input checked="" type="checkbox"/> 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:	<input type="checkbox"/> Met <input type="checkbox"/> Remediation Plan demonstrating will be compliant <input checked="" type="checkbox"/> Not Applicable

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.	
Compliance:	<input checked="" type="checkbox"/> Met <input type="checkbox"/> Remediation Plan demonstrating will be compliant
Summary:	Onsite Visit Summary (8/2019): There are limited active measures taking place to facilitate activities outside of the setting. Owners reported that all outings are done on an individual basis; that group outings are not possible. One resident reported that all transportation is arranged by staff and they have the final say. The setting does not have a process for individuals to give input and control their schedule and activities. There are no activity or outing calendars established ahead of time, the owners ask residents what they want to do every day and then the owners determine if they can accommodate. Programming (activities and outings) only goes until 5pm.

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Remediation Plan Summary:

The provider will submit a formal plan to solicit feedback from individuals to make sure they are able to access the community as much as they desire. Please provide a plan that shows regularly scheduled community activities based on individual input.

Onsite Visit Summary (9/2021):

Residents reported they can go in the community if they want, but covid makes them nervous to go out and in the community as often as they would like such as neighborhood walks, going out to eat and appointments. However, there is no regular schedule for activities in the community, and no plan for one in the future.

Remediation Plan Summary:

The provider submitted a formal plan to solicit feedback from individuals to make sure they are able to access the community as much as they desire. The plan includes a process to include scheduled community activities based on resident input.

Onsite Visit Summary (9/2022):

During the visit we found that there isn't a formal process for individuals to find out about community activities or give feedback. Staff report that they talk with people around the house about what they want to do but most people stay in their rooms. Individuals said that they really only go shopping or out for walks. Based on the interviews it seems staff and individuals are each waiting for the other to take the initiative on instituting more community activities. There is a posted board with activities but communication isn't happening

Remediation Plan Summary:

Best AL has developed a policy where the last Monday of the month we will meet with the residents and discuss activities for the next month and find out what the residents want to do, Staff will provide residents with a calendar of events for the month including in the community activities with flyers for these events as well as in Facility activities. This calendar will be on the bulletin board along with all flyers or pamphlets. Every Monday during our weekly resident meeting (around the dinner table) a Staff member will present to the residents what activities that are taking place in the community and provide a way for each resident to let staff know if they want to go to this event or not. Staff will ensure all residents understand that participation is voluntary and provide a way for residents to let staff know if they want to participate or not. Staff will keep a log book showing which residents participated and which ones opted out. Residents who have family close can go out into the community with their families and enjoy time with them. We have an open-door policy, so visitors are allowed to come anytime that is convenient for them. BAL works with the families to help coordinate activities for the residents. At the dinner table we take time daily to discuss upcoming events in the community and talk about what people want to attend. We talk about future outings the residents may want to do and how we can best achieve those requests. Usually, we assign someone to call and find out what is available and how much things cost and then come back and discuss them around dinner the next day. If no one volunteers to call BAL will have a staff member do the follow up.

Onsite Visit Summary (5/9/2023):

The setting does not facilitate the opportunity to be integrated into the greater community to the same degree as individuals not receiving HCBS services. Facility needs a formal process for

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	<p>residents to choose activities. This includes input from all residents on what activities they are interested in. During the visit we found there are limited active measures taking place to facilitate activities outside of the setting. Residents are not aware of other activities unless they are on the board, posted by the setting. Individuals state they do not get to make the schedule but the staff makes suggestions and then the said individual gets to choose if they get to go on the community outing. The setting continues to need to explore other transportation options other than staff, including public transportation. The setting must be more resourceful with their transportation options to get residents out into the community to the level of their choice.</p> <p>Remediation Plan Summary:</p> <p>Providers will continue to work with the residents on providing opportunities weekly to schedule both individualized and group activities out in the community of their choice. The setting will give the option of taking the residential to a public transportation stop at a scheduled time of their choice as another choice of transportation, etc</p> <p>Providers will ask residents individually or encourage using the suggestion box if they are not comfortable speaking in such a small group.</p> <p>Onsite Visit Summary (6/15/2023):</p> <p>During the visit it was found that all of the areas previously found noncompliant were brought into compliance. Individuals state they are getting out into the community as often as they desire and that they are always going out. The setting holds a monthly meeting with the residents to plan next month's activities. They also meet weekly to discuss what they are doing for the week. The residents reported they are choosing to go out as a group for most activities and include all the residents in activities at this time. There is one individual that likes to go on hikes by themselves. The setting assisted this individual to go to a nearby park independently to go on a hike. Residents are going to the senior center, local stores of their choice, parks of their choice, hikes, various walks in the community, etc. The administration has discussed other forms of transportation, residents are not as familiar and they choose the setting to transport them. The setting will continue to offer other transportation options to residents as an option.</p> <p>Policy/Document Review:</p> <p>The following were reviewed for compliance:</p> <ul style="list-style-type: none"> ● BAL Grievance Policy ● Community Integration ● Resident council agenda 2023 ● April 2023 Activity Calendar ● Fliers with directions for kitchen appliances ● Updated menu format ● Transportation information
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Prong 3 B: The setting is selected by the individual from among setting options, including non-disability specific settings.	
Compliance:	<input checked="" type="checkbox"/> Met <input type="checkbox"/> Remediation Plan demonstrating will be compliant
Summary:	Onsite Visit Summary (9/2021)

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	<p>Residents reported they do know they have the ability/right to move to another residence. They mentioned being able to coordinate that with their case manager.</p> <p>Onsite Visit Summary (9/2022)</p> <p>During the visit the individuals we interviewed said they chose to live there and were aware of the process to change providers.</p>
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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.

Compliance:	<input checked="" type="checkbox"/> Met <input type="checkbox"/> Remediation Plan demonstrating will be compliant
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Summary:	<p>Onsite Visit Summary (8/2019):</p> <p>It was observed that the owners control a lot of decisions that occur in the home. They were present for many of the interviews (both residents and staff) and chimed in for others. The setting does not have a process in place for individuals to participate in meal planning. There are restrictions on alcohol and tobacco use.</p> <p>There are established house rules that each resident is required to sign and they are posted in common areas as a reminder. There are no locks on bedroom doors. Schedules are set by the setting; individuals are allowed to not participate or skip what is on the schedule. Individuals do not have access to food at any time. Owners reported individuals can ask for food but residents cannot independently access snacks.</p> <p>Remediation Plan Summary:</p> <p>The provider will submit a formal plan to solicit feedback from individuals to make sure they are able to ask for food at any time. The provider will submit a process for individuals to give input on their schedules. The provider will install locks on bedroom doors. The provider will document informed consent for any restrictions and develop a method for easing rules and restrictions and allowing individuals to make more decisions for themselves.</p> <p>Onsite Visit Summary (9/2021):</p> <p>It is a small family run business, there is a concern of the grievance/complaint process since there are only 2 staff. There is a “occupied” sign you are supposed to flip over when you are occupying the restroom.</p> <p>Remediation Plan Summary:</p> <p>The provider will install locks on the bathrooms. The setting will need to demonstrate they have a policy in place that ensures that grievances/complaints are followed through on and that there is a way for for grievances/complaints to be addressed when there is no agreeable solution (e.g. a third party mitigator, human rights committee, etc.).</p> <p>Onsite Visit Summary (9/2022):</p> <p>During the visit it was found that there are no cameras in the facility. Individuals are able to have visitors at any time. Individuals have their own private room and staff knock before entering. Individuals said they felt respected and that they like the staff. There is information posted about general individual rights. Individuals said they had access to snacks and it was observed that individuals had snacks in their rooms. Individuals said that they could ask for a</p>
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different meal if they wanted. It wasn't clear if individuals participated in the meal planning. Individuals said they have a blue card they use to purchase food when shopping. At first it was unclear if the provider asked them to purchase food for the entire house with these funds but it was clarified that those funds are used only for food for the individual. There are locks on the bedrooms and bathrooms.

Remediation Plan Summary:

BAL has implemented a policy that states that the Nutritionist menu is to be followed but residents always have the right to ask for something else to eat like a sandwich or bowl of cereal or anything else they would like if available either prior to the meal or during the meal. During the weekly residents meeting Staff will see if the residents want anything special to eat that week and seek input into the menu for that week. During the week sometimes residents feel like pizza or something like that BAL can make an impromptu change to the menu for that meal and log it in the change menu log.

BAL does not handle the funds for any of the residents and each resident has their own debit cards. BAL does not hold on to them for the residents. All but one of the residents has a food card where they can buy food or pharmacy items using their card. This food card is a debit card that is a use it or lose it card. So if the residents do not use 100% by the end of the month any money left in the account is put back to zero. This is a card used to purchase Healthy snacks and OTC products. We encourage the residents if they have money left close to the end of the month to buy something they would like as a snack or for a meal. Staff does the shopping for the Facility and always pays with the facility Visa card and does not use residents' funds at all. BAL has developed a policy that states BAL cannot manage any residents' funds. BAL staff is not allowed to suggest to residents on what to use their own funds on. If residents purchase something to share with everyone in the facility BAL will not co-mingle that food with food the facility has purchased. The residents can keep that food in their room and share as they like.

Onsite Visit Summary (5/9/2023):

During the visit it was found that residents are not allowed in the kitchen and are told they cannot cook due to not having a food handlers permit. This includes toast or coffee etc. There are also no microwaves or other personal cooking items allowed in their rooms. One individual reported they "were told they could not have coffee that day because they were having orange juice". They made it clear that was the only option that was available that day.

One individual states they give what money is left on their food card to the others because they are told the card doesn't carry money over. The garage door is locked with no access. This is where food for the residents is stored. Residents must have the opportunity to prepare their own meals if they want to and have access to the kitchen and any other areas of the house. It was unclear if residents were able to administer their own medication if they choose.

The setting is overly restrictive and must provide access to all areas of the home.

Remediation Plan Summary:

Provider will show residents are allowed into the kitchen and have access to the appliances to cook if they want to. Setting will clarify individuals are in control of their funds and they are able to spend their funds as they desire. The garage door will be unlocked and the chemicals will be stored safely elsewhere. Residents have the right to administer their medications including OTC medications if they prefer to. Setting will provide actions taken to ensure residents are aware of this.

Onsite Visit Summary (6/15/2023):

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	<p>During the visit it was found that all of the areas previously found noncompliant were brought into compliance. Residents and staff reported they are allowed in all areas of the home and allowed to cook for themselves if they choose to. The administrator has put instructions on the appliances for the residents to assist those that need reminders on how to use them. Residents report they are allowed to eat where they choose in the home, including in their rooms. They report they choose to eat as a group the majority of the time. The garage is now unlocked; residents have access to their food and all areas of their home. The administrator continues to meet with residents weekly on getting their input and feedback on menu items. Although the residents have been hesitant to provide feedback, they are becoming more comfortable with the new process that has been implemented. The setting has both a weekly menu and an alternative menu to choose from. The administrator has implemented a policy and communicated the policy to residents that they are in control of their own personal funds (including their food cards). Residents report they understand they are in control of their funds. The administrator stated residents are allowed to administer their meds, however they prefer the admin to administer them. Individuals confirmed these statements when interviewed.</p> <p>Policy/Document Review: The following were reviewed for compliance:</p> <ul style="list-style-type: none"> ● Bedroom and bathroom lock photos ● Resident rights document ● Resident council agenda
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Overall, the setting enforces the Home and Community-Based Settings Regulation requirements.	
Compliance:	<input checked="" type="checkbox"/> Met <input type="checkbox"/> Remediation Plan demonstrating will be compliant
Summary:	<p>Overall, all segregating and institutional concerns were addressed through the remediation and validation process and the State was able to validate the areas that were remediated through the validation visit process.</p> <p>As indicated below, this setting will be reviewed through ongoing monitoring activities.</p>

Input from Individuals Served and Staff

Individuals Served Summary:	<p>Summary of interviews (2019):</p> <ul style="list-style-type: none"> ● Residents reported that they feel respected and feel like they can provide feedback and opinions at any time. ● Residents reported they do know they have the ability/right to move to another residence. They mentioned being able to coordinate that with their case manager. ● A resident reported “it is not the ideal situation”. ● Residents report that they are able to go out in the community and have means to do so. ● Residents reported that there is no lock on the shared bathroom/shower room. ● One resident interviewed said they could not get snacks anytime they wanted. ● One individual reported they went out into the community every day and were able to do what they wanted. ● One individual reported they have made friends with some of the neighbors.
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- Individual interviewed reported they chose this setting.

Summary of interviews (2021):

- Residents reported they can go in the community if they want, but covid makes them nervous to go out
- Residents report they go in the community as often as they would like such as neighborhood walks, going out to eat and appointments.
- Residents reported they used to go to the senior center prior to covid.
- Residents reported they do know they have the ability/right to move to another residence. They mentioned being able to coordinate that with their case manager.
- Residents reported that they feel respected and feel like they can provide feedback and opinions at any time.
- Residents report that they are able to go out in the community and have means to do so.
- One resident interviewed said they could not get snacks anytime they wanted.
- Residents reported that there is no lock on the shared bathroom/shower room.
- A resident reported "it is not the ideal situation".

Summary of interviews (2022):

- Individuals interviewed communicated the most common visit into the community is for grocery shopping.
- Individuals interviewed said they are able to go outside for walks.
- Individuals interviewed recognized the name of their case manager when told.
- Individuals interviewed indicated that staff knock and wait before entering the room
- Individuals interviewed stated that they felt safe living at the provider.
- Individuals had access to snacks and could have something different to eat if they didn't want what was prepared for a meal.

Summary of interviews (5/9/23):

- Individual states if they had a vehicle, they would do more things they want to do. For example, hiking and walking up in the canyon. Individual stated "likes to do things alone". Would like to do more hikes alone, but have no transportation.
- Residents are not allowed in the kitchen and are told they cannot cook due to not having a food handlers permit. This includes toast or coffee etc. No microwave in their rooms.
- Individuals state they give what money is left on their card to the others because they are told the card doesn't carry money over.
- Individual "was told they could not have coffee that day because they were having orange juice".
- Individual states do not get to make the schedule. Admin makes suggestions and then the said individual gets to choose if they go

Summary of interviews (6/15/23)

- Individuals are able to participate monthly to determine what activities they want to participate
- Individuals have been educated on other forms of transportation
- Individuals can go out into the community as often as they desire
- Resident likes to go to the local parks and hike independently
- Residents can choose the what and where they eat
- Individual goes out "always"

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<p>Staff Summary:</p>	<p>Summary of interviews (2019):</p> <ul style="list-style-type: none"> ● Administration reports that they provide residents with information about senior citizen center pick up, Uber and Lyft. And their friends and family can take them out. ● One staff member interviewed reported they had been trained on individual rights within the last six months. ● One staff reported they did not know to make a request to change their service. <p>Summary of interviews (2021):</p> <ul style="list-style-type: none"> ● Administration reports that they provide residents with information about senior citizen center pick up, Uber and Lyft. And their friends and family can take them out. <p>Summary of interviews (2022):</p> <ul style="list-style-type: none"> ● Staff interviewed indicated that they talk with individuals around the dinner table about activities. ● Staff interviewed indicated that if an individual doesn't want to participate in an activity where they can stay home. ● Staff interviewed said they take individuals for fast food and for haircuts. ● Staff interviewed said they coordinate with the individuals for non-medical trips. ● Staff indicated that food menus are developed by a nutritionist ● It was not clear if there was a process for individuals to request specific meals. ● It was not clear if residents participated in meal planning. <p>Summary of interviews (5/9/23):</p> <p>There is only one staff, that is the owner/administrator</p> <ul style="list-style-type: none"> ● Admin stated they administer any medications, even otc. Over the counter meds are not allowed in rooms. ● During admin interviews, it was mentioned that individuals are not allowed to come and go from the setting without staff supervision. ● During staff interviews, it was mentioned that individuals are not allowed to come and go from the setting without staff supervision. ● Residents are not allowed in the kitchen and are told they cannot cook due to not having a food handlers permit. This includes toast or coffee etc. No microwave in their rooms. ● Admin mentioned that individuals are not allowed to come and go from the setting without staff supervision. ● Admin is the only transportation <p>Summary of interviews (6/15/23):</p> <ul style="list-style-type: none"> ● Admin stated residents are allowed to administer their meds, however they prefer the admin to administer them. Individuals confirmed these statements when interviewed. ● Residents are allowed in the kitchen to cook for themselves. ● This includes toast or coffee, and microwave. The admin has flyers hanging up with instructions for the appliances in the kitchen. ● Garage door is now unlocked and chemicals have been stored elsewhere. ● Individuals state they are in control of their own money.
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<p>Ongoing Remediation Activities</p> <p>Current Standing: <input checked="" type="checkbox"/> Currently Compliant <input type="checkbox"/> Approved Remediation Plan</p>
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Continued Remediation Activities	<input checked="" type="checkbox"/> N/A for currently compliant
Ongoing Monitoring Activities	<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"> ● Conducting individual served experience surveys ● Addressing settings compliance during the annual person centered service planning process ● Ongoing provider training and certification ● Monitoring through critical incident reporting ● Case Management/Support Coordinator visit monitoring ● HCBS Waiver Reviews/Audits

Summary of Stakeholder Workgroup Comments Received and State Response:

Stakeholder Workgroup Review: June 27 2023 - July 30, 2023
No workgroup comments were received.

Summary of Public Comments Received and State Response:

Public Comment Period: July 26, 2023 - August 2, 2023
No public comments were received.

Summary of Stakeholder Workgroup Recommendation:

Stakeholder Workgroup Review: June 27 2023 - July 30, 2023
We only got a response from one workgroup member. The recommendation was the setting was ready to be submitted as presented.

Utah's Recommendation

Recommendation: Compliant
The State has determined the setting has overcome the effect of isolating individuals from the broader community and is in compliance with the HCBS Settings Rule.