

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:	Bear O Care	Site #	New Setting
Site Address:	1864 W 12600 S, Ste 7-9, Riverton, UT 84065		
Website:	https://www.bearocare.org/		
# of Individuals Served at this location regardless of funding:	30	# of Medicaid Individuals Served at this location:	25
Waiver(s) Served:		HCBS Provider Type:	
<input checked="" type="checkbox"/> Acquired Brain injury <input type="checkbox"/> Aging Waiver <input checked="" type="checkbox"/> Community Supports <input type="checkbox"/> Community Transition <input type="checkbox"/> New Choices <i>Description of Waivers can be found here:</i> https://medicaid.utah.gov/ltc/		<input checked="" type="checkbox"/> Day Support Services <input type="checkbox"/> Adult Day Care <input 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:			
<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"> ● 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:	7/21/21 (Virtual) - At previous location, 09/14/2021 (virtual)
Description of Setting:	
<p>Bear O Care is a nonprofit whose facility is located in an ADA accessible, public, integrated building amongst private and public businesses. They moved locations for better community integration and were re-enrolled through the new provider process. The new location is within walking distance of several community resources. The provider specifically moved locations for better community integration as their previous location was isolating in nature.</p> <p>The information for the visit at the previous location was included to show the history and settings commitment to come into compliance with the Settings Rule. The State agrees that the provider had significant segregating and isolating factors that it had to overcome in the previous setting. The setting went through significant transformation with the move to a new physical location, along with greater access to community, improved service delivery, and ADA accessibility. The vast majority of the segregating and institutional characteristics they have overcome came from their previous location, not the new setting.</p>	
Current Standing of Setting:	
<p><input checked="" type="checkbox"/> Currently Compliant: the setting has overcome the qualities identified above</p> <p><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:</p>	

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

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<p>Summary:</p>	<p>Onsite Visit Summary (07/21/2021): The majority of activities provided are onsite activities and the setting uses reverse integration to provide community access. Staff had indicated that because they serve a population of medically complex individuals a barrier to community integration is the challenge of managing self-care needs when in the community. While staff have employment conversations and some individuals said they would like to work, the Setting does not facilitate the process for individuals to pursue competitive integrated work as an option. Staff aren't sure what to do after having employment conversations and conversations around jobs are vague and grandiose. The current location of the setting is isolated and isn't connected to the community in a meaningful way. The setting plans to increase access to the community and activities that are within walking distance at the new location including a visit to the community splash pad. It was determined that the majority of activities provided were still done onsite and that the setting was using reverse integration to provide community access. The setting did not facilitate the process for individuals to pursue competitive integrated work as an option.</p> <p>Remediation Plan Summary: The provider is plans on moving into a new building in the near future. Another validation visit will be scheduled once the move is complete. The new location is within walking distance of several community resources. The provider chose to specifically move locations for better community integration as their previous location was isolating. After the move, the provider will train staff on how to manage individuals self-care needs when out in the community as to remove that barrier. Employment conversations will focus around specific interests and what types of positions individuals could start exploring. The provider will develop a process for taking employment conversations and using those as part of the process to help individuals explore and take on jobs that interest them. The setting worked with the State and the University of Utah and received technical assistance around competitive integrated employment (CIE) specific to the population they serve.</p> <p>Onsite Visit Summary (09/14/2021): The setting serves multiple individuals with medical support needs and has implemented individual choice to access the community in multiple ways during COVID restrictions, including having multiple live virtual activities including a religious instruction class, musical therapy, and nutritional classes. They are continually asking for more input towards other virtual activities individuals may be interested in participating in. These are activities where the individual is able to interact and communicate through the virtual setting. Even though larger group activities aren't being done because of COVID at this time, they still take individuals out into the community in small groups or 1 on 1. Staff ask clients if they want to come with them on trips to the community. An example of this is an individual who enjoys going with staff to the post office. While there, the individual likes to carry the mail and talk with staff. If staff leave the building for any reason, individuals have the option to go out with them, if they choose to. Individuals can add stops on these trips if they want, like stopping at the gas station to get a drink, etc. Leadership described communication with nearby organizations and businesses to facilitate community integration. The provider moved buildings specifically to be in an area that is less isolating and to better serve the individuals in their program. They are located between IFA and Peterson's Market and near the DogFather. They are able to walk to Peterson's Market to get food at any time.</p>
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Staff indicated that if a client was interested in work, they would bring the information to leadership. Staff were able to describe how they are helping clients explore their interests. Individuals interviewed said staff talk to them about employment; several of them aren't interested in working. These conversations have changed from vague things such as "wanting to be president" to finding entry level positions for individuals to get involved in careers they are interested in. The provider developed a formal process for taking the employment conversations and exploring the steps needed to find employment options that interest the individual. Staff have been trained on working with individuals' self-care needs when in the community which was a large barrier to community integration previously.

Remediation Plan Summary:

As part of the follow up to the 9/14/2021 visit, the State asked Bear O Care to submit a reintegration plan for accessing the community fully once they end their COVID restrictions. The State provided TA and feedback on their submitted plan. The provider moved locations to be in an area that is less isolating. In this plan, the provider noted that during COVID larger group activities were limited, but they were still conducting 1 on 1 and small group outings, depending on individuals choice and interest. The provider gave several examples for how to involve individuals in community activities of their choice. One example is an individual who enjoys walking to the post office to pick up mail and talk with staff. Another is of a group of three individuals interested in cars who were able to go to a local tire shop to watch mechanics work and talk with staff. Following that visit, one individual communicated that they were no longer interested in working with cars. The reintegration plan gave several other examples where individuals' interests were discussed, an activity was planned, and follow up details were provided. The provider plans to hire more staff to increase the number of individuals they can serve. If they are not able to hire more staff, they will have a staff member who is dedicated to taking individuals out into the community every day.

Desk Review Summary

As part of the follow up to the 9/14/2021 visit, the State worked with the provider through technical assistance to review their plans to integrate into the community once COVID restrictions were lifted. While the provider demonstrated compliance at the time of the visit, the State wanted to ensure that they were committed to continued community integration of those they serve as the risks of COVID passed. This plan was developed through technical assistance with State staff and the provider, and was reviewed by the Settings team with the State.

Policy/Document Review:

The following were reviewed for compliance:

- Employment Process
- Intro to HCBS Training
- Bear O Care HCBS Settings Reintegration Plan

Prong 3 B: The setting is selected by the individual from among setting options, including non-disability specific settings.

Compliance: Met Remediation Plan demonstrating will be compliant

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Summary:	<p>Onsite Visit Summary (09/14/2021): Multiple individuals interviewed during the visit indicated that they like coming to Bear O Care and like the move to the new building.</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 (07/21/2021): During the onsite visit, staff confirmed there were no restrictions in place. The state suggested “person first” training as a part of the remediation. Staff were found to not be using person-first, age appropriate language. One staff member used a drink as a reward for completing a task. Staff did not know how activities are planned or who to approach if individuals had a topic/activity that they would want to do. The provider has standardized schedules for individuals at the setting that don’t offer flexibility or choice. Activities at the provider are often arts and crafts and didn’t appear to offer a range of age appropriate activities.</p> <p>Remediation Plan Summary: Training has been provided to staff as a whole and on an individual basis as needed in the areas of communication, respect, and rights. Staff will be trained on a process for taking individuals' feedback on activities and incorporating them into a plan. The provider will individualize daily schedules to allow more freedom and choice. The setting worked with the State and received technical assistance around person first language, choice, and individualized schedules.</p> <p>Onsite Visit Summary (09/14/2021): The provider added dry erase boards in common areas to remind staff what they are working on including using preferred communication and examples of choice. Thursday staff meetings are held to check-in, provide updates, and discuss any improvements. Training has been provided to staff as a whole and on an individual basis as needed in the areas of communication, respect, and rights. The majority of staff used respectful and age appropriate language. One staff member used the word “kids” to describe individuals several times but corrected themselves during the visit. The provider has implemented schedules that are unique to each individuals’ needs and choices. Individuals being served have meaningful interactions with people with and without disabilities while out in the community. The setting has implemented methods to facilitate individual choice throughout the day including Picture Exchange Communication System (PECS) and communication cards. The setting has set up rooms with multiple activities that individuals can choose from throughout the day. This is a change from before where each group room did the same activity and individuals had no choice. Individuals are able to roam between the rooms if they are unsure which activity they would like to participate in; this was observed during the visit. All staff interviewed were able to describe and explain the weekly Monday planning process. Staff ensures that each individual has input, providing 1 on 1 time if needed.</p>
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	<p>Leadership noted that the increase in daily choice and variation between rooms has reduced agitation among some individuals. This is a big change from the previous visit where all rooms at the old location had the same activity and individuals weren't given a choice of alternate activities.</p> <p>Remediation Plan Summary: As part of the follow up to the 9/14/2021 visit, the State asked Bear O Care to submit a reintegration plan for accessing the community once they end their COVID restrictions. The State provided TA and feedback on their submitted plan. The provider will continue to train new staff about how the choices are made for activities, how each week, staff and individuals meet to determine what activities they are interested in doing; this was demonstrated on the 9/14/21 visit. The provider will continue to provide choice and exploration if an individual indicates interest in something other than what was planned. Based on individual feedback, the provider is exploring options for activities that are typically only available for adult individuals (such as restaurants where alcohol is served). The provider indicated that they are going to continue to ask clients when they arrive each day where they want to go and what they want to do. The weekly meetings asking people what they want to talk about and how they want to spend the week are shared. Notes from this meeting are kept on file and can be referred back to at any time.</p> <p>Desk Review Summary: As part of the follow up to the 9/14/2021 visit, the State worked with the provider through technical assistance to review their plans to integrate into the community once COVID restrictions were lifted. While the provider demonstrated compliance at the time of the visit, the State wanted to ensure that they were committed to continued community integration of those they serve as the risks of COVID passed. This plan was developed through technical assistance with State staff and the provider, and reviewed by the Settings team with the State. The State verified through the desk review that activities are now age appropriate, the setting is continuing to ensure staff are treating individuals with respect, and are trained on individual rights and dignity and respect.</p> <p>Policy/Document Review: The following were reviewed for compliance:</p> <ul style="list-style-type: none"> ● Bear O Care HCBS Settings Reintegration Plan
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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>The setting went through significant transformation with its move to the new setting. They received technical assistance to ensure they came into compliance and met settings regulations requirements. The setting moved from reverse integration to community integration in an individualized person-centered fashion during a public health emergency.</p> <p>State staff worked extensively with Bear O Care to help them achieve compliance. The State was impressed with the provider's willingness to make big adjustments to their services and location to ensure they came into compliance with the rule and were able to continue serving HCBS Waiver members.</p>

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Input from Individuals Served and Staff

Individuals Served Summary:	<p>Summary of interviews (7/21/2021):</p> <ul style="list-style-type: none"> ● Individuals talked about how they would like to go out into the community more. ● Individuals indicated that they would like to work. <p>Summary of interviews (9/14/2021):</p> <ul style="list-style-type: none"> ● An individual said they pick activities, like room choices. ● An individual said they participate in activity planning. ● An individual said they aren't interested in a job. ● An individual said they like coming to the new site. ● An individual said staff talk about where they could work and jobs they see people doing. ● An individual likes Bear O Care and staff treat them well. ● An individual said they don't go as much as they want. ● An individual said they can say no to activities they don't like.
Staff Summary:	<p>Summary of interviews (7/21/2021):</p> <ul style="list-style-type: none"> ● Staff stated that many individuals would not be able to work. ● Many activities described by staff and leadership included pre-recorded videos and tours. ● Staff described boxes to teach individuals skill building tasks by putting a peg on or off a board. ● Staff ask individuals if they are interested in different jobs that they talk about. However, staff are not aware of next steps if an individual shows interest. ● One staff member stated that to motivate an individual to complete a task, they said they "couldn't have a drink until after they completed their task." ● Staff did not know how activities are planned or who to approach if individuals had a topic/activity that they would want to do. ● One staff member is learning sign language on her own to better communicate with some clients. <p>Summary of interviews (9/14/2021):</p> <ul style="list-style-type: none"> ● Staff take individuals out and get involved in the community, talk about how to be a part of your own community and how to interact. ● Staff talk to individuals about the weekly activities to get them excited. ● One person was so excited to go to the grocery store and bring back doughnuts. ● Staff ask individually if people want to go, and they will communicate yes or no. ● Leadership talks to people on Mondays about what they would like to do that week. ● Staff go through the different options of activities so people can choose what they want. ● Staff said with their new building they can go out in the community more as they are close to a lot of places to go out to lunch and shopping. Very central. ● Staff said that they introduce adult activities and don't take away preferred activities, but teach skills appropriate to the age.

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Ongoing Remediation Activities	
Current Standing: <input checked="" type="checkbox"/> Currently Compliant <input type="checkbox"/> Approved Remediation Plan	
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