

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:	Family Tree at West Point	Site ID:	309
Site Address:	421 North 3150 West, West Point, UT		
Website:	https://familytreeliving.com/		
# of Individuals Served at this location regardless of funding:	34	# of Medicaid Individuals Served at this location:	11
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:	8/26/2019 (Onsite), 5/26/2023 (Onsite)
Description of Setting:	
The setting is an assisted living facility. Setting relies on family and friends to assist with transportation because it is located in a rural location in the community.	
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:	<p>Onsite Visit Summary (2019): Setting is a facility (assisted living apartments). Setting relies on family and friends to assist with transportation. The residents choose where they would like to go shopping on shopping outings. The setting has periodic activities or events that families and friends are invited to participate. Examples include Thanksgiving dinner, Christmas parties, Summer BBQs, Mother’s day socials, Father’s day social, Easter. They try to do a monthly big “social” for family and friends.</p> <p>Individuals control their own spending money and are able to buy whatever they choose to. The setting is not in a location conducive to integration in the surrounding community. There are</p>

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limited active measures taking place to facilitate activities outside of the setting. Community based outings consist mostly of shopping and van rides. These outings occur once per week. One individual interviewed reported they had not been out of the facility in the month that she had lived there and she did not feel she was able to participate in activities that are important to her in the community and she feels very alone. Tuesdays are doctor appointment transportation days. Wednesdays are shopping days. No other transportation is facilitated. One staff interviewed reported they do not necessarily participate in a variety of community activities, they focus on activities within the facility. Another staff interviewed reported that residents do not participate in a wide variety of community activities. They go shopping or on a ride weekly. Transportation is minimal as they only have one facility van and there is no public transportation available. Schedules are general and do not seem to fit the ideas of the individuals living at the facility. Schedules seem centered on what is convenient for staff versus to benefit residents

Remediation Plan Summary:

Family Tree will provide information regarding age-appropriate activities including competitive work, shopping, attending religious services, medical appointments, dining out, etc. Family Tree will provide contact information, access to public transportation, taxis, uber, and their schedules. Family Tree will provide information and resources to access the broader community, including wheelchair accessibility transportation.

Family Tree will hold a town hall meeting monthly for individuals to share feedback and give input on activities available to them to ensure they are accessing the community as much as they desire. Individual care conferences are held to address the residents desire for community involvement. Family members often participate in the care conference process and also take residents into the community. Staff help get residents ready for these activities. Town Hall has been created and designed to allow individuals the ability to present ideas to fit their preferred schedules. Individual schedules are also created and changed based on the individuals needs and desires as reflected in their person centered service plan. The facility provides a Community Event and Resource binder that is used to give information of events and activities going on in the local community. This allows residents to choose things they would like to attend and coordinate with staff, family and others to integrate into the broader community anytime they like. Staff research events in the community and provide information in the binder.

Onsite Visit Summary (2023):

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Residents have the freedom to choose community outings. These outings are determined by town hall meetings and individual care conferences or residents talking with staff.

The facility created a space in the common area that provides a Community Event and Resource binder that can be used to give information of events and activities going on in the local community. There is a monthly calendar hanging up here as well. Some of the residents are from around the area and they look forward to going to familiar places. Residents stated they were able to visit the fair park in the area.

The setting has a town hall meeting where individuals can discuss community options and provide feedback on what activities they would like to do, as well as a suggestion box. The setting also has a folder with contact information for transportation resources not provided by

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the provider. This folder also has information on local community activities. Some of the residents are from around the area and they look forward to going to familiar places. They also mentioned going out to eat at places of their choice, shopping (various stores of their choice), and site seeing. Residents can come and go as they please. The setting schedules a minimum of two group community activities per month. Individuals can request local transportation from the setting for individual community access during the week. The setting will also assist in facilitating transportation as needed. There are no activities on Saturdays and Sundays unless the family picks up. This was ok for those individuals that have family, however, not if someone wanted to go out during the weekend. In general, residents reported they were accessing the community to the frequency they desired.

During the visit it was noted that some individuals weren't able to recognize when asked about participating in the monthly town hall. Settings should inform residents and encourage participation for everyone at the setting.

Remediation Plan Summary (2023):

The facility created a space in the common area that provides a Community Event and Resource binder that can be used to give information of events and activities going on in the local community. There is a monthly calendar hanging up here as well. Setting will provide how they will ensure all residents are aware of town hall and other resources for activities. The setting provided a transportation flier that now includes weekends giving directions on how to contact other forms of transportation so residents can assess the community to the extent they desire on all days of the week. The setting facilitates transportation as well as provides transportation within a 10 mile radius of the setting.

They also submitted a description of their Vibrant Living program, including how the program works and how the residents work with the staff for their choice of activities. Vibrant Living activity interest form to be completed at time of move-in. The Vibrant Living program starts when residents move into the facility by filling out an activity interest list that includes their likes, accomplishments, and social interactions they would like to continue. The resident then works with the staff to have a more individualized schedule that will help them achieve more meaningful activities in their community.

Desk Review Summary:

Due to the review of the policies, the State came to the determination that all overly restrictive and segregating concerns were addressed through the communication with the provider and updates of more robust policies and training of staff.

Policy/Document Review:

The following were reviewed for compliance:

- West Point City Calendar
- Community Event and Resource binder
- Town Hall Agenda (blank form)
- April Meeting Agenda
- Vibrant Living Program information

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

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Compliance:	<input checked="" type="checkbox"/> Met <input type="checkbox"/> Remediation Plan demonstrating will be compliant
Summary:	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. As indicated below, this setting will be reviewed through ongoing monitoring activities.

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 Remediation Plan demonstrating will be compliant
Summary:	<p>Onsite Visit Summary (2019):</p> <p>The setting does not ensure an individual’s rights of privacy, dignity, and respect because some of the younger staff talk about personal information publicly.</p> <p>One of the individuals interviewed reported she can make her own schedule most of the time. She reported she has significant health limitations and they do their best to work around her needs.</p> <p>Individuals can ask staff for food at any time. They are also able to keep food in their apartments. They are able to have a refrigerator and microwave in their apartments if they choose to. Better planning in regards to activities to make them more meaningful to individuals to ensure integration into the greater community. The posted activity calendar is repetitive; weekly activities are the same for the entire month. There is not a lot of variety. One individual interviewed reported that she can choose what activities to participate in but she doesn’t have any say in what type of activities are added to the calendar. One individual reported they have specified spots to sit in the dining room and they have to ask if they want to move spots. The executive director reported they have assigned seats to prevent fights but that they will change them as often as needed per their request and new residents are able to choose any open seat available for meals.</p> <p>One individual reported that she dislikes the food but does not say anything because she is sure nothing will change. Individuals interviewed reported they cannot lock their bathroom doors. Observed no locks on either bathroom doors. Cameras observed. It was reported that they are not operational and they have not been functioning for the last 10 years. The setting has no mechanism in place for individuals to choose their schedule and for the setting to accommodate changes to the schedule within a reasonable timeframe. Individuals interviewed reported they are required to keep to a set schedule for everyday activities (ADL’s). One individual reported the schedule can be flexible but only every once in a while. Both individuals interviewed reported they could have a meal or snack when and where they want to (but the snack cart is only available on the weekdays, not the weekends).</p> <p>The setting has visitor restrictions. One individual said they can have visitors most of the time; that visitors usually come during the day and she is unsure about visitors during night hours. Notice on the front door states the facility is open 7am-7pm. One individual interviewed</p>

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reported they can have visitors at any time. Observed visitors/family members coming into setting and meeting with residents.

Remediation Plan Summary:

We allow them to choose any open seat available upon move in. All assigned seating markers are to be removed from tables. Cameras removed from the facility other than above the med cart. Staff receive new hire training and continue education staff related to the rights of individuals. Family Tree will provide training to staff for rights restrictions and settings rule HCBS settings rules are regularly reassessed for compliance and effectiveness. Reporting resources are posted in the building for residents. Resident rights are discussed monthly at town hall meetings. Notice on the front door stating its open 7am-7pm has been removed. Individuals can have private visits anytime. Family tree does not restrict visitors. Staff training regarding visitor policy. Individuals living at Family Tree can create their own daily schedule. Staff do work at the same time each day. The staff schedule is designed to accommodate their needs but to also create a stable schedule, so residents will be able to have staff. Care conferences are held quarterly or as requested to provide an avenue for resident involvement and flexibility for changing everyday activities and schedules. Residents can re-schedule their appointments and community activities as needed. They coordinate this with the staff. Staff schedules can be adjusted to accommodate resident needs. Staff schedules are designed to accommodate residents needs and also create a stable schedule. Snack carts are available every day of the week. The process has been changed since the original site visit.

Photos of bathroom locks were submitted to the State. Residents have demonstrated they are able to use the bathroom locks. We will continue to monitor residents ability and will switch out locks depending on their needs. Individuals living at Family Tree can create their own daily schedule. Staff do work at the same time each day. The staff schedule is designed to accommodate their needs but to also create a stable schedule, so residents will be able to have staff. Care conferences are held quarterly or as requested to provide an avenue for resident involvement and flexibility for changing everyday activities and schedules.

Onsite Visit Summary (2023):

The facility created a space in the common area that provides a Community Event and Resource binder that can be used to give information of events and activities going on in the local community. There is a monthly calendar hanging up here as well. No restrictions were observed or reported. During the visit, we observed either missing or inadequate locks on bathroom doors for individuals we interviewed.

Remediation Plan Summary:

A new bathroom door lock policy was created and submitted. The policy describes the proof of door locks being monitored for the ability to be used by residents (accessibility). This check is done monthly by maintenance.

Desk Review Summary:

Due to the review of the policies, the State came to the determination that all overly restrictive and segregating concerns were addressed through the communication with the provider and updates of more robust policies and training of staff.

Policy/Document Review:

The following were reviewed for compliance:

- Resident rights handout.

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	<ul style="list-style-type: none"> ● Visitor Policy ● Bathroom lock photos ● Town hall agenda (blank form) ● April Meeting Agenda ● Photos of installed bathroom locks ● Town Hall Meeting Agenda (Resident Council) ● Transportation flier ● Bathroom Door lock policy and maintenance
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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"> ● One individual interviewed reported they had not been out of the facility in the month that she had lived there and she did not feel she was able to participate in activities that are important to her in the community and she feels very alone. ● One individual interviewed reported they did not have the information needed to choose who provides their services. She was told insurance accepted this facility. ● One resident interviewed reported they had the information they needed to choose who provides their services. This individual had moved from another assisted living and reported she chose this one over the one she had lived in previously. ● One of the individuals interviewed reported she can make her own schedule most of the time. She reported she has significant health limitations and they do their best to work around her needs. ● One individual interviewed reported that she can choose what activities to participate in but she doesn't have any say in what type of activities are added to the calendar. ● One individual reported they have specified spots to sit in the dining room and they have to ask if they want to move spots. ● One individual reported that she dislikes the food but does not say anything because she is sure nothing will change. ● One individual interviewed reported that they felt staff knew what is important to them and they get the assistance they need in the setting. ● One individual interviewed reported they know what services they are receiving and they knew how to request a change to their services if they wanted to. ● Both individuals interviewed reported they knew how to request a new place to live if they wanted.
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	<ul style="list-style-type: none"> ● Individuals interviewed reported they can close and lock their apartment door and staff always knock prior to entering their apartments. ● Individuals interviewed reported they cannot lock their bathroom doors. ● Both individuals interviewed reported they could have a meal or snack when and where they want to (but the snack cart is only available on the weekdays, not the weekends). ● Individuals interviewed reported they are required to keep to a set schedule for everyday activities (ADL's). One individual reported the schedule can be flexible but only every once in a while. ● One individual interviewed reported they can have visitors at any time. ● One individual said they can have visitors most of the time; that visitors usually come during the day and she is unsure about visitors during night hours. ● Both individuals interviewed reported they are able to do their own laundry if they want to and there is a laundry room for residents to use. <p>Summary of interviews (2023):</p> <ul style="list-style-type: none"> ● Individual states they can go out into the community as much as they want ● Has choice in their schedule ● Can give feedback in Town Hall and feel safe ● Can come and go as they want
Staff Summary:	<p>Summary of interviews (2019):</p> <ul style="list-style-type: none"> ● One staff interviewed reported they do not necessarily participate in a variety of community activities, they focus on activities within the facility ● Another staff interviewed reported that residents do not participate in a wide variety of community activities. They go shopping or on a ride weekly. ● One staff member reported some of the younger staff do talk about personal information publicly. ● The executive director reported they have assigned seats to prevent fights but that they will change them as often as needed per their request and new residents are able to choose any open seat available for meals. ● One individual reported the staff do not really understand her or her needs and she would not know who to talk to if they wanted to request a change to their services. ● Staff interviewed reported that residents make their own schedules and decide what activities to participate in. ● Both staff members interviewed reported they had been trained on the individual rights within the last year. ● The executive director interviewed reported they do training at monthly in-service meetings as well as new hire orientation. <p>Summary of interviews (2023):</p> <ul style="list-style-type: none"> ● Meet with activity "lady" for monthly activities ● Can change ADL times if needed ● No restrictions ● Has a pamphlet that shows activities ● Get out into the community as much as they want to, sometimes they choose not to ● Allowed food in the rooms

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	<ul style="list-style-type: none"> • Take individuals out in groups of 5-7
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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

Summary of Stakeholder Workgroup Comments Received and State Response:

Stakeholder Workgroup Review: June 27 2023 - July 30, 2023
<p>Comment: It's unclear to me in the 2023 summary of the visit if multiple individuals were interviewed and reported that they are able to access the community as they like and that there are no restrictions. Can you please clarify? In addition, am I understanding that the facility gives information about accessing public transportation on the weekends but doesn't help facilitate it? I think it would be helpful to me to know if and how and how often individuals are getting into the community, and if they are just given information about transportation or if the setting will support them to access transportation. I don't think that a meeting is necessary to discuss this, but am happy to attend if the stakeholder group decides to meet. Thank you.</p> <p>Response: The State agrees the information presented was not clear. The information has been added to the heightened scrutiny document above under 3 A and 3 C has been updated.</p>

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. Their comments are noted above.

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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.