

# Home and Community Based Settings Rule Heightened Scrutiny Evidentiary Package

## Setting Information

<b>Site Name:</b>	Mission at Community Living	<b>Site ID:</b>	126
<b>Site Address:</b>	10 W. 400 S., Centerfield, Utah		
<b>Website:</b>	<a href="https://www.missionhealthservices.org/mission-community-rehabilitation-center/">https://www.missionhealthservices.org/mission-community-rehabilitation-center/</a>		
<b># of Individuals Served at this location regardless of funding:</b>	39	<b># of Medicaid Individuals Served at this location:</b>	5
<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 checked="" 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 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>	10/14/2019 4/19/2021 (Virtual Validation Interviews)		
<b>Description of Setting:</b>			
<p>The setting is an assisted living residential facility (ALF) that is in the same building/attached to a skilled nursing facility (SNF)</p> <p>The setting is located on Main Street of a rural community which allows residents to access local businesses and community resources.</p>			

# Home and Community Based Settings Rule Heightened Scrutiny Evidentiary Package

## 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

**Summary:**

**Onsite Visit Summary:**

It was found that ALF residents can come and go at any time and are able to go into the SNF side of the facility independently. There are residents that are able to drive still and the setting ensures they have an apartment with a parking space close to their room so it is easier for them to come and go independently. It was found that there were limited active measures taking place to facilitate activities outside of the setting. Facility vans are shared by the ALF and SNF. The setting did not have a process for individuals to give input and control their schedules and activities.

**Remediation Plan Summary:**

The setting has implemented a formal process for individuals to give input and control their schedule and activities. The activity calendar is prepared by ALF staff with input from the newly established monthly held resident council meeting. ALF residents can be involved in any activities they are interested in and choose to attend. There is now a designated ALF van for transportation to community integration activities. This allows greater flexibility in scheduling and increased opportunity for community access.

**Validation Summary (4/19/21):**

Resident council meetings have been put on pause as part of their COVID-19 precautions. The setting needs to do a better job at educating individuals and staff on the process for residents to give input into the activities offered. The setting must obtain preferences from residents on an ongoing basis and report those preferences to whomever is responsible for putting together the activity calendar. The setting must also ensure the ALF activity calendar is based on ALF resident feedback and does not include SNF resident feedback. Due to current COVID-19 community restrictions, we were unable to validate if individuals are offered an increased opportunity to experience their community. The State will conduct another validation once community restrictions have been lifted.

**Interconnectedness between the institution (SNF) and the setting (ALF):**

- They are located in separate areas of the setting and the ALF has three entrances separate from the SNF
- The ALF is separated from the SNF residents by a locked door
- The administrator oversees both the SNF and the ALF
- They have separate supervisors and their direct care staff do not overlap. The ALF supervisor is retiring on 3/31/21 and will be replaced with a licensed ALF Administrator.
- Nurses from the SNF are only utilized at the ALF in emergency situations
- Lunch and dinner meals are prepared by SNF staff and then delivered to the ALF where ALF staff serve the residents
- Church services are attended by both ALF and SNF residents

**Policy/Document Review:**

# Home and Community Based Settings Rule Heightened Scrutiny Evidentiary Package

	<p>The following were reviewed for compliance:</p> <ul style="list-style-type: none"> <li>● Activity calendar</li> <li>● Resident council meeting template</li> <li>● Administrator and supervisor job tasks</li> </ul>
--	---

**Prong 2: The setting is in a building on the grounds of, or immediately adjacent to, a public institution; the setting overcomes this presumption of an institutional setting.**

<b>Compliance:</b>	<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.**

<b>Compliance:</b>	<input type="checkbox"/> Met <input checked="" type="checkbox"/> Remediation Plan demonstrating will be compliant
--------------------	---

<b>Summary:</b>	<p><b>Onsite Visit Summary:</b>  As individuals are of the retirement age, most choose not to work. 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. There is no public transportation available in the rural community. The setting has designated an ALF van to ensure that residents are able to go out into the community to the extent that they desire. Residents who are able to drive are also able to come and go as they choose. Residents interviewed reported they had family members that took them out into the community frequently as well.</p> <p><b>Remediation Plan Summary:</b>  The setting has implemented a formal process for individuals to give input into and control their schedule and activities. The activity calendar is prepared by ALF staff with input from the newly established monthly held resident council meeting. ALF residents can be involved in any activities they are interested in and choose to attend. There is now a designated ALF van for transportation to community integration activities. This allows greater flexibility in scheduling and increased opportunity for community access.</p> <p><b>Validation Summary (4/19/21):</b>  Resident council meetings have been put on pause as part of their COVID-19 precautions. Due to current COVID-19 community restrictions, we were unable to validate if individuals are offered an increased opportunity to experience their community. The State will conduct another validation once community restrictions have been lifted.</p> <p><b>Policy/Document Review:</b>  The following were reviewed for compliance:</p> <ul style="list-style-type: none"> <li>● Activity calendar</li> <li>● Resident council meeting template</li> </ul>
-----------------	--

# Home and Community Based Settings Rule Heightened Scrutiny Evidentiary Package

<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. In this rural community, there are limited choices. Individuals choose this facility to stay in their community. The setting does not restrict access to any non-disability settings and facilitates access when requested.</p>

<b>Prong 3 C: The setting optimizes, but does not regiment individual initiative, autonomy, and independence in making life choices. The setting ensures an individual's rights of privacy, dignity, respect, and freedom from coercion and restraint. The setting ensures the individual has the freedom and support to control his/her own schedule and activities.</b>	
<b>Compliance:</b>	<input 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. Individuals are able to sit anywhere they choose in the dining room and there are always multiple choices for each meal. They are able to participate in meal planning by providing feedback and recommendations. They have access to food at any time. There is a refrigerator stocked with snack foods that residents can access independently and residents can keep food in their apartments. There were no restrictions observed or reported. It was reported that staff knock and immediately walk into their apartments without waiting for permission to enter. Apartment bathroom doors did not lock. The setting reported individuals who required assistance had to bathe prior to 2pm due to staff availability. The setting did not provide access to kitchen facilities for residents to cook their own meals if they choose.</p> <p><b>Remediation Plan Summary:</b> The setting retrained all direct support staff on privacy expectations, to ensure that staff are knocking and receiving permission prior to entering apartments. Locks were added to apartment bathroom doors. The setting implemented a resident choice form that documented resident's bathing preferences as well as meal times and other activities. This form is used to create new bathing schedules based on the resident's preferences. In the common dining area, there was a small grill for grilling sandwiches, a warming plate, a microwave, a hot chocolate machine, a Keurig machine for coffee and tea, and food was added to a cupboard and mini fridge to allow for self-service soups, sandwich fixings, etc. The setting will add more foods as requested by residents. Staff were trained on individuals having independent access to food and the ability to make their own meals. All remediation activities were completed by 10/31/2020.</p> <p><b>Validation Summary (4/19/21):</b></p>

# Home and Community Based Settings Rule Heightened Scrutiny Evidentiary Package

	<p>Individuals served and staff reported that staff now knock and receive permission prior to entering a resident’s private living space. Staff also reported they have been trained to not enter a locked door except in emergency situations. Residents confirmed locks have been added to their bathroom doors. Individuals reported they can fix a meal or have a snack if whenever they want. They are able to keep food in their private rooms and there is food available in the common areas as well. Individuals and staff both reported individuals are able to control their daily schedules. Individuals reported they are able to determine how often and when they receive assistance with things such as bathing and if they want to change the day and time they receive assistance, staff will accommodate as requested.</p> <p><b>Policy/Document Review:</b> The following were reviewed for compliance:</p> <ul style="list-style-type: none"> <li>● Receipt for locks purchased</li> <li>● Resident Choice Form</li> </ul>
--	---

<b>Overall, the setting enforces the Home and Community-Based Settings Regulation requirements.</b>	
<b>Compliance:</b>	<input type="checkbox"/> Met <input checked="" type="checkbox"/> Remediation Plan demonstrating will be compliant
<b>Summary:</b>	Overall, all identified concerns were addressed and completed on the setting’s submitted remediation plan. In addition to the other training mentioned above, the setting did an overall HCBS training for all staff to ensure all areas of HCBS were understood and implemented on a daily basis. Staff are trained on HCBS requirements both upon hire and ongoing on an annual basis. Due to current COVID-19 community restrictions, we were unable to validate if individuals are offered an increased opportunity to experience their community. The State will conduct another validation once community restrictions have been lifted.

## Input from Individuals Served and Staff

<b>Individuals Served Summary:</b>	<p>See attached questions asked of individuals served interviewed</p> <p><b>Summary of interviews (10/14/2019):</b></p> <ul style="list-style-type: none"> <li>● Individuals reported they were able to control their spending money.</li> <li>● Individuals reported they chose this facility because it’s the only facility in this rural area and they wanted to stay in this community.</li> <li>● One individual reported they do not get to go out into the community as much as they would like to. They would go out if more opportunities were offered. This was addressed in Prong 1 above.</li> <li>● Another individual reported they would not go on any additionally offered activities by the facility. They do love the “singles” activities offered.</li> <li>● There were no concerns reported around privacy, dignity, or respect.</li> <li>● One individual reported they gave the recommendation of a new recipe and they made it for one of the meals shortly after.</li> <li>● Individuals reported staff always knock but they do not wait for a response prior to entering. This was addressed in 3C above.</li> </ul>
------------------------------------	---

# Home and Community Based Settings Rule Heightened Scrutiny Evidentiary Package

	<ul style="list-style-type: none"> <li>● One individual reported they were very happy with their visitor policy. They can have visitors at any time and love when their grandkids come to visit.</li> <li>● Overall, residents reported they are happy with the setting and services they receive.</li> </ul> <p><b>Summary of interviews (4/19/21):</b></p> <ul style="list-style-type: none"> <li>● Individuals reported they were able to control their daily schedules.</li> <li>● Individuals reported they were able to make a meal or snack whenever they wanted.</li> <li>● Individuals reported that staff knock and receive permission prior to entering their private living space.</li> <li>● Individuals reported that locks have been added to their bathroom doors and they are able to lock them as they choose.</li> <li>● One individual reported they did attend resident council meetings before they were paused and they were able to express their likes and dislikes at the meeting.</li> <li>● Another individual reported they had not been to a resident council meeting (they had lived here only during the COVID-19 pandemic).</li> <li>● Another individual reported they get to make suggestions of what they would like to do, but they have not been having resident council meetings recently.</li> <li>● Individuals reported that due to the pandemic, they are not going into the community much at this time.</li> </ul>
<b>Staff Summary:</b>	<p>See attached questions asked of direct support staff interviewed</p> <p><b>Summary of interviews (10/14/2019):</b></p> <ul style="list-style-type: none"> <li>● There were no concerns identified in the staff interviews</li> <li>● The leadership interview identified areas of HCBS training that were needed for staff. This was addressed in 3C above.</li> </ul> <p><b>Summary of interviews (4/19/21):</b></p> <ul style="list-style-type: none"> <li>● Staff interviewed confirmed that individuals are able to control their own daily schedules.</li> <li>● Staff reported that they knock and receive permission prior to entering any private resident spaces.</li> <li>● Staff reported that residents can now lock their bathroom doors.</li> <li>● Staff reported that they were unsure how residents gave input into the monthly activity calendar.</li> <li>● One staff member reported that individuals were able to choose the details of some activities (such as where they went out to dinner).</li> <li>● One staff member reported that during COVID-19 they follow the activity schedule of the long-term facility next door.</li> </ul>

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

<b>Stakeholder Workgroup Review: March 3, 2021</b>
<p><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.</p> <p><b>Response:</b> The State removed some of the detailed information as identified prior to the document being put out for public comment.</p>

# Home and Community Based Settings Rule Heightened Scrutiny Evidentiary Package

## 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.

### Setting Specific Comments

**Comment:**

# Home and Community Based Settings Rule Heightened Scrutiny Evidentiary Package

One commenter expressed an area they found problematic was that the setting yields that both the ALF (Assisted Living Facility) and SNF (Skilled Nursing Facility) have the same administrator, and that certain services are provided onsite for both SNF and ALF residents including church services.

**Response:**

Although the ALF and SNF have the same administrator, there are different supervisors that oversee each program. It is correct that services such as church services are open to all residents of the facility; at the same time ALF residents are able to attend church services in their community if they desire as well. The State has determined the small level of interconnection between the ALF and SNF does not make the setting institutional in nature.

**Comment:**

One Commenter stated that while a remediation plan was included, it was unclear whether or not the ALF had actually implemented new policies, and whether or not the State had evaluated the site based on updated information. Specifically, the State's materials indicated that the ALF residents were not, until recently, able to have input in their community outings, or participate in drafting their own schedule.

**Response:**

The heightened scrutiny evidentiary packet document has been revised to include more detailed information on the timeline for remediation activities. Follow up interviews with both participants and staff were conducted and the additional information was added to the evidentiary packet document as well.

**Comment:**

One commenter expressed concern that ALF residents were not given 24/7 access to the kitchen and In addition, the State's documents indicate that oftentimes, ALF staff would enter a room immediately after knocking without waiting for a response from the resident. They requested clarification on the timeline for the remediation plan.

**Response:**

Residents do not have 24/7 access to the commercial kitchen. The setting implemented the following in the common dining area to ensure residents had the ability to make their own meal if they desired: There was a small grill for grilling sandwiches, a warming plate, a microwave, a hot chocolate machine, a Keurig machine for coffee and tea, and food was added to a cupboard and mini fridge to allow for self-service soups, sandwich fixings, etc. The setting will add more food as requested by residents. Staff were trained on individuals having independent access to food and the ability to make their own meals.

The heightened scrutiny evidentiary packet document has been revised to include more detailed information on the timeline for remediation activities. Follow up interviews with both participants and staff were conducted and the additional information was added to the evidentiary packet document as well.

## Summary of Stakeholder Workgroup Recommendation:

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

The majority of the Stakeholder Workgroup recommended that the heightened scrutiny packet is ready to be submitted to CMS (75% of those that responded). There was still concern voiced about submitting the packet prior to the final validation visit occurring.

# Home and Community Based Settings Rule Heightened Scrutiny Evidentiary Package

## Utah's Recommendation

Date of Recommendation:
The State has determined the setting has an approved remediation plan to overcome the effect of isolating individuals from the broader community by being a setting that is in a publicly or privately operated facility that provides inpatient institutional treatment and is in compliance with the HCBS Settings Rule.