



**Colorado Home and Community-Based Services
 Heightened Scrutiny Evaluation**

Adult Residential Setting Summary Sheet

Heightened Scrutiny Identification Number	HS-012
Provider Name	Eben Ezer Lutheran Care Center
Setting Name	
Setting Address	1910 Edison Street, Brush, CO 80723
Compliant as of Date	Expected to submit remaining evidence of compliance this summer, to be verified by 12/31/21.
Date of This Evaluation	April 21, 2021 <i>for public comment; updated July 28, 2021 for CMS. Updates are in italicized green font.</i>

Setting Type

- Alternative care facility (ACF)
- Group Residential Services and Supports (GRSS) group home
- Individual Residential Services and Supports (IRSS) host home
- Individual Residential Services and Supports (IRSS) other
- Supported Living Program (SLP) facility under BI waiver

- Transitional Living Program (TLP) facility under BI waiver

Waivers Served

- Community Mental Health Services (CMHS) for Persons with Major Mental Illnesses
- Elderly, Blind and Disabled (EBD)
- Persons with Brain Injury (BI)
- Persons with Developmental Disabilities (DD)

Reason(s) for Heightened Scrutiny

- Located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment (such as a hospital, nursing facility, ICF/IID, or IMD);
- Located in a building on the grounds of, or adjacent to, a public institution; or
- Has the effect of isolating individuals receiving Medicaid home- and community-based services (HCBS) from the broader community of individuals not receiving Medicaid HCBS

Setting Description
The setting type is an Alternative Care Facility (ACF) that sits on the same campus as a Nursing Facility. Their policies and procedures, all operations, and the staff who perform them are completely separated. During a site visit, state staff met with the provider who demonstrated a solid knowledge of understanding the need for this and being dubiously clear that these are independent, separately functioning settings. There is no staff overlap. The setting supports 86 individuals.



Compliance Summary

Compliant?	Federal Requirement	Summary of Evidence of Compliance
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> Partial <input type="checkbox"/> No	<p>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. <i>Id.</i> § 441.304(c)(4)(i).</p>	<p>The provider has increased development of programs enabling individuals to leave the setting and engage in community activities. This was done by providing information about events and activities happening in the community, posting ideas and opportunities on community boards, and continuing to source individual's interest via community meetings.</p>
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> Partial <input type="checkbox"/> No	<p>The setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and for residential settings, resources available for room and board. <i>Id.</i> § 441.301(c)(4)(ii).</p>	<p>In Colorado, case management agencies are responsible for</p> <ul style="list-style-type: none"> • working with the individual to ensure that the setting is selected by the individual from among setting options including non-disability-specific settings and, where residential supports will be provided, an option for a private unit in a residential setting; • ensuring that setting options are identified and documented in the person-centered support plan and are based on the individual's needs, preferences, and for residential settings, resources available for room and board; and • supplying the person-centered support plan to provider agencies for implementation. <p>Provider agencies are responsible for implementing the person-centered support plan. They are also responsible for referring individuals to their case management agency if they want to request a different provider or setting.</p> <p>As part of the site-specific verification process, the state verified that providers complied with their responsibilities relating to informed choice. This process included verifying that settings did not have compliance issues such as telling individuals that they must receive services there, even if they would prefer something else.</p>



		<p>Individuals are not told they must reside and receive services from the setting. Individuals can choose who provides these services and supports however these setting options and choices are not identified and documented in the person-centered plan. The provider indicates they will provide training for the individuals on informed decision-making skills and resources. The provider uploaded a list of options for individuals to choose where they may receive services.</p>
<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> Partial <input type="checkbox"/> No</p>	<p>The setting ensures an individual's rights of privacy, dignity, respect, and freedom from coercion and restraint. <i>Id.</i> § 441.301(c)(4)(iii).</p>	<p>Modifications to policies, procedures, and/or house rules have been made to align with federal and state requirements on rights and autonomy. The provider has provided these updated documents to the individuals, along with plain-language (including pictorial) explanations of the updates. The provider needs to submit their updated House Rules and Smoking Policy, regarding a safe designated smoking area outside and individuals' access to their cigarettes and lighters at all times. Provider will ensure family will not be notified of individuals' non-compliant behavior without a signed release of information. The provider also needs to ensure that interior cameras are removed. Provider states internal cameras will be removed once vendors are allowed in the building post-pandemic. Consumption of alcohol was previously only allowed with a doctor's order and individuals are now allowed to have alcohol without relying on a doctor's order at the ACF. House Rules have been updated to reflect this change.</p>
<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> Partial <input type="checkbox"/> No</p>	<p>The setting optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact. <i>Id.</i> § 441.301(c)(4)(iv)</p>	<p>Individuals have the ability to use their own communication devices to make/receive private phone calls and to send/receive private emails and text messages at the times of their choosing. Individuals have the ability to have visitors at any time and to socialize with whomever they choose including romantic relationships. The provider submitted a document titled Procedure to Manage Personal Needs Funds as evidence of compliance with ensuring individuals have access to their money on 5/24/2019. The provider ensures restraints are never used on individuals while residing at this ACF.</p>
<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> Partial</p>	<p>The setting facilitates individual choice regarding services and supports, and who provides them. <i>Id.</i> § 441.301(c)(4)(v)</p>	<p>Individuals are not told they must reside or receive services from the setting, even if they prefer something else. Individuals can choose who provides these services and supports.</p>



<input type="checkbox"/> No		
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> Partial <input type="checkbox"/> No	<p>The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at minimum, the same responsibilities and protections from eviction that tenants have under the landlord-tenant law of the State, county, city or other designated entity. For settings where landlord-tenant laws do not apply, a lease, residency agreement, or other form of written agreement is in place for each HCBS participant providing protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord-tenant law. <i>Id. § 441.301(c)(4)(vi)(A)</i></p>	<p>The provider has modified their residential agreement, with only the need to identify the state authority for governing disputes, to be compliant with having met all required elements.</p>
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> Partial <input type="checkbox"/> No	<p>Each individual has privacy in their sleeping or living unit: (1) Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors. (2) Individuals sharing units have a choice of roommates in that setting. (3) Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement. <i>Id. § 441.301(c)(4)(vi)(B)</i></p>	<p>Individuals can lock their bedroom doors. Each bedroom has a private bathroom, which are not shared. Individuals have the freedom to decorate their living unit as they choose.</p>
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> Partial	<p>Individuals have the freedom and support to control their schedules and activities and have access to</p>	<p>Individuals have access to the dining area for snacks and meals with comfortable seating. They can choose their own seat, choose their company, and choose to converse. Individuals have access to</p>



<input type="checkbox"/> No	food any time. <i>Id. § 441.301(c)(4)(vi)(C)</i>	a variety of snacks 24 hours per day. Individuals have input and choice with respect to menu planning.
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> Partial <input type="checkbox"/> No	Individuals are able to have visitors of their choosing at any time. <i>Id. § 441.301(c)(4)(vi)(D)</i>	Individuals have the ability to have visitors at any time and to socialize with whomever they choose including romantic relationships.
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> Partial <input type="checkbox"/> No	The setting is physically accessible to the individual. <i>Id. § 441.301(c)(4)(vi)(E)</i>	Individuals have full access to the typical facilities in a home including the kitchen, dining, laundry, and comfortable seating in common areas. The setting is physically accessible to all individuals.
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> Partial <input type="checkbox"/> No	Any rights modifications are supported by a specific assessed need and justified in the person-centered service plan. The following criteria are documented in the person-centered service plan: (1) A specific and individualized assessed need. (2) The positive interventions and supports used prior to any rights modifications. (3) The less intrusive methods of meeting the need that were tried but did not work. (4) A clear description of the rights modification that is directly proportionate to the specific assessed need. (5) A plan for the regular collection and review of data to measure the ongoing effectiveness of the modification. (6) Established time limits for periodic reviews to determine whether the modification is still necessary or can be terminated.	Staff have been trained in person-centered principles. Documentation indicates that the individuals' specific and individualized needs are documented in a person-centered plan. The provider ensures any proposed rights modifications are supported by a specific assessed need and justified in the person-centered service plan including the need for informed consent from the individual. The provider uses the state-approved informed consent template in the event a rights modification is being proposed. A sample completed informed consent form was submitted for review from state staff and demonstrated a strong understanding for when a rights modification may be used.



	<p>(7) The informed consent of the individual.</p> <p>(8) An assurance that interventions and supports will cause no harm to the individual. <i>Id.</i> § 441.301(c)(4)(vi)(F)</p>	
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Summary of Findings From Desk Review and/or Site Visit(s)

The state reviewed the Provider Transition Plan (PTP) and supporting materials submitted by the provider for this setting. Through an iterative process, the state worked with the provider to ensure that the PTP accurately identified all compliance issues and heightened scrutiny triggers and reflected resolution of all such issues (or a plan to timely finish doing so).

The state reviewed the following materials submitted by the provider:

- Rights of Persons Handout
- Grievance/Complaint Policy
- Medication Policy
- Mistreatment Policy
- Physical Intervention Policy
- Incident Reporting Policy
- Money Management Policy
- Lease/Residency Agreement
- Admission/Discharge Policies
- House Rules
- Recent Month Calendar of Community Activities
- List of available providers
- Evidence of person-centered training
- Photo evidence of locks on bedroom doors
- Completed Informed Consent form

If the provider updated any of these materials, the findings in this evaluation reflect the most recent version of each item.

State staff reviewed the provider’s submitted Provider Transition Plan (PTP) for this setting, identifying compliance issues. In turn, state staff gave detailed feedback as to their required remediation. State staff asked the provider to make changes to their documents to reflect less restrictive practices. The provider shows a strong understanding that rights modifications must be supported by a specific assessed need and justified in the person-centered plan. The provider successfully submitted a compliant Restraint Policy and Grievance policy.

The provider has submitted updates in the PTP, including additional evidence such as photographs of locks on bedroom doors and evidence of staff’s completion of person-centered training. The setting appears to be able to make final changes to meet the requirements for the HCBS Settings Final Rule. State staff will schedule a final revisit to verify compliance has been achieved.

Summary of individual interviews: This home has been visited by state staff, however there are no interviews to be summarized.

The Individual/Family/Advocate (IFA) Survey results were reviewed, and comments included that individuals interact with people outside of their home multiple times a week, are able to go where they want outside of the home, can access all areas of the home, and can eat whenever and wherever they want. Additionally, all individuals reported having locks on their bedroom doors, being able to have visitors at all times, feel that staff treat them with respect, and that their belongings are safe.

Additional Comments

No public comments were received regarding this setting.



COLORADO
Department of Health Care
Policy & Financing

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