



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

Nonresidential Setting Summary Sheet

Heightened Scrutiny Identification Number	HS-018
Provider Name	B-4 Day Program and Residential Services
Setting Name	
Setting Address	110 Santa Fe Drive, Pueblo, CO 81006
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 28, 2021 <i>for public comment; updated July 21, 2021 for CMS. Updates are in italicized green font.</i>

Setting Type

- Adult Day Services (Not IDD Specific) Basic
- Adult Day Services (Not IDD Specific) Brain Injury Waiver
- Adult Day Services (Not IDD Specific) Specialized
- Day Habilitation for Individuals with IDD Prevocational Services
- Day Habilitation for Individuals with IDD Specialized Habilitation
- Day Habilitation for Individuals with IDD Supported Community Connections (SCC)
- Day Treatment under Brain Injury Waiver

- Supported Employment Group Supported Employment

Waivers Served

- Children's Extensive Support (CES)
- Community Mental Health Supports (CMHS) for Persons with Major Mental Illness
- Elderly, Blind, and Disabled (EBD)
- Persons with Brain Injury (BI)
- Persons with Spinal Cord Injury (SCI)
- Persons with Developmental Disabilities (DD)
- Supported Living Services (SLS)

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
B-4 Day Program and Residential Services serves a number of individuals receiving HCBS. This day program setting was flagged for heightened scrutiny because historically, it offered only segregated services in its building, which had the effect of isolating individuals from the broader community. Additionally, in the past, this setting had features resembling a preschool, with activities to match. The provider has made improvements in this department and now offers some age-appropriate activities. The provider still has work to do in this area and is actively working with CDPHE to restructure its program to comply with the HCBS Settings Final Rule and better serve individuals. The agency is working on a plan to add community-integrated services post-pandemic. Training in person-centered principles was completed, and policies/procedures were updated to eliminate broad-based restrictions.



Compliance Summary

Compliant?	Federal Requirement	Summary of Evidence of Compliance
<input type="checkbox"/> Yes <input type="checkbox"/> Partial <input checked="" 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. 42 C.F.R. § 441.304(c)(4)(i).</p>	<p>The setting was marked for heightened scrutiny primarily because of lack of community integration. Individuals rarely have the opportunity to interact with people who are not staff and do not have disabilities. Individuals do not yet have enough opportunities to leave the setting to go into the greater community, and the setting does not yet provide sufficient age-appropriate activities for individuals receiving services. The provider has developed a training on age-appropriateness for its staff to improve in this area. State staff provided additional guidance. Final verification that services are reflective of adult programming will be made on a future site visit.</p> <p>The provider submitted plans to add community-based activities into its programming. CDPHE deemed initial plans insufficient to meet this requirement. For example, initial plans did not outline how opportunities for community integration would be available to all individuals, and the plans also seemed to indicate that individuals would be charged fees for such opportunities. State staff provided additional guidance, and the provider is actively working on additional plans to achieve integration. Final verification that the plans have been implemented and integration achieved will be determined via a future site visit.</p>
<input checked="" type="checkbox"/> Yes <input 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>



		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.
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> Partial <input type="checkbox"/> No	The setting ensures an individual's rights of privacy, dignity, respect, and freedom from coercion and restraint. <i>Id. § 441.301(c)(4)(iii).</i>	Yes, this setting is compliant with this requirement. Individuals are free to exercise their rights of privacy, dignity, respect, and freedom from coercion and restraint at this setting.
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> Partial <input type="checkbox"/> No	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. § 441.301(c)(4)(iv).</i>	Many of the initial concerns the state had in this area have been resolved or are being worked on. At the time of the site visit, all exits chimed when opened, but this was remedied by 4/1/21. The chimes will be turned off during hours of operation (the provider noted that they are hard-wired into the building and cannot be removed). In addition, the provider ensured that individuals can come and go as they wish to the locker room to access their belongings.
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> Partial <input type="checkbox"/> No	The setting facilitates individual choice regarding services and supports, and who provides them. <i>Id. § 441.301(c)(4)(v)</i>	Individuals have a choice of many day program settings, including this one. Historically, the provider relied on family members and annual meetings for input regarding services. The agency has submitted plans to meet with individuals to better understand their unique preferences directly. In a follow-up site visit, CDPHE will verify that these plans have been implemented.
<input type="checkbox"/> Yes <input type="checkbox"/> Partial <input type="checkbox"/> No <input checked="" type="checkbox"/> Not Applicable	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>	This a nonresidential site, so this requirement does not apply.
<input type="checkbox"/> Yes <input type="checkbox"/> Partial <input type="checkbox"/> No <input checked="" type="checkbox"/> Not Applicable	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.	This a nonresidential site, so this requirement does not apply.



	<p>(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.</i> § 441.301(c)(4)(vi)(B).</p>	
<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> Partial <input type="checkbox"/> No</p>	<p>Individuals have the freedom and support to control their schedules and activities and have access to food any time. <i>Id.</i> § 441.301(c)(4)(vi)(C).</p>	<p>Individuals receiving services have access to food and can eat what they want, when they want. However, they do not yet have full control of their schedules and activities. In the past, individuals were restricted from leaving the setting on a broad basis, and no individual was free to leave when they chose. The provider has since revised this practice and is working on rights modifications for the few remaining individuals that may benefit from and consent to such restrictions.</p>
<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> Partial <input type="checkbox"/> No</p>	<p>Individuals are able to have visitors of their choosing at any time. <i>Id.</i> § 441.301(c)(4)(vi)(D).</p>	<p>Yes, individuals may have anyone they wish visit them on the premises at any time.</p>
<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> Partial <input type="checkbox"/> No</p>	<p>The setting is physically accessible to the individual. <i>Id.</i> § 441.301(c)(4)(vi)(E).</p>	<p>Yes, the site is fully accessible to all individuals.</p>
<p><input type="checkbox"/> Yes <input type="checkbox"/> Partial <input checked="" type="checkbox"/> No</p>	<p>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. (7) The informed consent of the individual. (8) An assurance that interventions and supports will cause no harm to the individual.</p>	<p>Initially, some broad-based restrictions were in place, as described elsewhere in this document. CDPHE explained to the provider that rights modifications need to be addressed on a case-by-case basis and adjusted accordingly. In April 2021, the provider stated that the setting will work with individuals and their case managers to create or revise rights modifications for individuals who require them. In a follow-up site visit, CDPHE will verify that these steps have been implemented in accordance with the federal and state requirements for rights modifications.</p>



	<i>Id.</i> § 441.301(c)(4)(vi)(F).	
--	------------------------------------	--



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. State staff conducted a site visit in 2019. During the site visit, state staff observed the setting and its operations, spoke with provider staff, and spoke with individuals outside the presence of provider staff to learn about their lived experience at the setting. State staff also reviewed the provider's policies and procedures and other documents (listed below).

State staff observed that the setting had a general preschool aesthetic and did not reflect a program suitable for adults. The majority of activities offered were designed for infants and toddlers. Alarms/chimes were installed on doors, and all individuals were prohibited from leaving at will. Services were segregated by design, with no supports to access the greater community. After the site visit, state staff provided guidance on how to remediate this setting through multiple contacts via email, phone calls, video calls, the comment boxes within the PTP platform, and webinars/trainings.

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
- Dispute Resolution Policy
- Recent Month Calendar of Community Activities
- Materials Regarding Staff Training on Person-Centered Thinking and Age-Appropriate Activities
- Assorted Photographs

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



Remediation Plan (If Not Already Implemented) & State Oversight to Verify Implementation

To overcome lack of community integration, the site needs to do the following:

- Develop programs to increase opportunities for community integration.
- Reduce individual-to-staff ratios and/or adjust staff responsibilities to improve community integration.
- Participate in specific education and outreach on community integration (provider and staff members).
- Modify current staff trainings on community integration.
- Offer training for individuals on community integration.
- Modify rules, policies, procedures, or practices to align with federal and state requirements on community integration.
- Ensure all areas of programming are age-appropriate.

The provider has made efforts to incorporate positive changes to its programming and has completed training in person-centered principles. It has revised all policies and procedures to eliminate broad restrictions. The alarms/chimes previously used to restrict egress have been disabled.

State staff informed the provider of their expectations for community integration, including that the provider must show:

- How many participants typically attend each community-integrated activity.
- Any operational changes that will be made to further increase community integration, and the timeline for these changes to occur.
- How staff promote regular interaction with non-disabled community members during outings/activities (other than staff).
- How the agency will ensure age-appropriate activities are provided within the setting and that information about such activities outside the setting is provided to individuals.
- How the agency will increase support for individuals to leave the setting and engage with the community.
- Measures the agency will adopt to ensure that such opportunities are available to every program participant, including any special measures for the groups that historically did not access the community at all.
- Post-pandemic, how staff will facilitate opportunities to build relationships and natural supports in the community.
- How the agency will train staff on new expectations.

Plans to revamp age-appropriateness and achieve community integration have been submitted by the provider. In addition, the provider is in the process of working with case managers and individuals on completing any needed rights modifications.

Once the provider has attested to compliance via evidence and statements uploaded to the PTP, state staff will complete a site revisit to verify that all points of concern are fully remediated.

Additional Comments

No public comments were received regarding this setting.