



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

Adult Residential Setting Summary Sheet

Heightened Scrutiny Identification Number	HS-020
Provider Name	Eastern Colorado Services for the Developmentally Disabled Inc.
Setting Name	The Franklin Program
Setting Address	Withheld, Sterling, CO 80751
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 16, 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 is an Individual Residential Services and Support (other) program. This is one of 26 sites located in the same area operated by the provider. This setting serves a small number of individuals that are all waiver participants. The individuals have their own rooms.



Compliance Summary

Compliant?	Federal Requirement	Summary of Evidence of Compliance
<input type="checkbox"/> Yes <input checked="" 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>Previously, the setting had policies, procedures, or practices preventing individuals from interacting with or receiving services in the community. Monthly meetings are now held to discuss community events. The individuals give input to meaningful activities. The policy now reflects that individuals have the ability to control their money and are not required to receive unwanted/non-optional assistance in managing their finances.</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> <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>



		The individuals are able to choose to reside and receive services from the setting. Setting options are identified and documented in the person-centered plan. The setting options are based on the individual's needs and preferences.
<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>	Previously, the setting's rules, policies, and practices restricted rights and freedoms on a broad basis. The agency has updated all documents to eliminate broad restrictions and reports that any remaining restrictions are now handled on an individual basis. While the setting uses door alarms, individuals affected have this right modified per the established process.
<input checked="" type="checkbox"/> Yes <input 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>	Previously, the individuals did not have the ability to use their own communication devices to make/receive private phone calls, emails, or text messages at times of their choosing. The viewing of television and internet content was also monitored. The provider reports any remaining restrictions are now handled on an individual basis. Staff have now been trained in person-centered principles.
<input checked="" type="checkbox"/> Yes <input 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>	The individuals are able to choose to reside in and receive services from the setting. These setting options are identified and documented in the person-centered plan. The setting options are based on the individual's needs and preferences.
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> Partial <input type="checkbox"/> No	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	A residential agreement that meets all requirements was submitted April 2021.



	eviction processes and appeals comparable to those provided under the jurisdiction's landlord-tenant law. <i>Id. § 441.301(c)(4)(vi)(A)</i>	
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> Partial <input type="checkbox"/> No	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>	Each individual has privacy in their sleeping unit. The provider has installed locks with keys on bedroom doors. Locks were also installed on bathroom doors. They have also made duplicate keys for everyone to access the front door. Evidence of remediation is found in both documentation and photographs submitted by the provider. All bedrooms are private.
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> Partial <input type="checkbox"/> No	Individuals have the freedom and support to control their schedules and activities and have access to food any time. <i>Id. § 441.301(c)(4)(vi)(C)</i>	The individuals have full access to typical facilities in the home such as the kitchen, dining area, laundry, and comfortable seating in shared areas. The individuals have access to food of their choice when they wish. The individuals have input and choice with respect to menu planning. The common area was formerly used for staff purposes, but this has been changed. Pictures have been submitted to show the front/common area that was previously used as a staff office/bedroom is no longer used as such.
<input type="checkbox"/> Yes <input type="checkbox"/> Partial <input checked="" type="checkbox"/> No	Individuals are able to have visitors of their choosing at any time. <i>Id. § 441.301(c)(4)(vi)(D)</i>	The individuals do not yet have the ability to have visitors at any time or 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>	The setting ensures physical accessibility.
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> Partial	Any rights modifications are supported by a specific assessed need and justified in the person-	The Program Manual has been completely revised to strictly be a training and guidance document for the staff. An updated version of the manual was submitted. House rules and restrictive components



<p><input type="checkbox"/> No</p>	<p>centered service plan. The following criteria are documented in the person-centered service plan:</p> <ol style="list-style-type: none">(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. <i>Id.</i> § 441.301(c)(4)(vi)(F) <p>have been removed. Any further modifications of rights will be done in accordance with the HCBS Settings Final Rule regarding informed consent and will be done on an individualized basis based on individualized assessed needs. The provider works with individual's therapists to discuss necessary changes and identify which right modifications are necessary to implement on an individualized basis, in order to then follow the required process for each. The individuals now have the ability to participate in religious activities both in the home and in the community. Person-centered training has been completed with all staff.</p>
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Summary of Findings From Desk Review and/or Site Visit(s)

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 institutional aesthetic and not that of a home. Most notably, a prominent section of the home's common areas was used by staff, including a bed and office area in the living room. Numerous staff postings were located throughout the home, and alarms/chimes were installed on doors. Services and supports were found to be both institutional and broadly restrictive, including strict adherence to numerous facility rules and schedules. Visitors were restricted and residents were often prohibited from leaving the home. Resident interviews and record reviews revealed residents were frequently on "house arrest" and that staff would "take away" resident belongings and restrict their recreational activities.

After the site visit, state staff provided guidance how to remediate this setting through multiple contacts via email, phone calls, video calls, 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
- Money Management Policy
- Lease/Residency Agreement
- Admission/Discharge Policies
- House Rules
- Recent Month Calendar of Community Activities

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

Summary of individual interviews: Two of three residents were interviewed in 2019. The residents reported numerous satisfaction issues, including complaints they were frequently not allowed to leave the property, not allowed to have visitors, not allowed to watch tv, and not allowed to use the phone or internet. Follow up interviews with staff confirmed these practices.

The Individual/Family/Advocate (IFA) Survey results were reviewed, and no comments were submitted for this setting.

Additional Comments

Historically, this was a highly institutional, highly segregated setting. The provider has made great strides to update policies, eliminate house rules, and begin addressing the unique needs of residents on an individualized basis. The provider reports it has eliminated all restrictive practices. The policies have been updated to reflect person-centered approaches. The setting has now adopted the rights modification process, including obtaining informed consent. Staff have been retrained in critical areas, including person-centered principles. The Covid-19 pandemic posed extra challenges to demonstrating community inclusion, though plans to do so are in place. The setting appears to be able to make final changes and fully comport to all Settings Rule requirements. State staff will schedule a final revisit to verify that compliance has been achieved.



No public comments were received regarding this setting.