



**COLORADO**

Department of Health Care  
Policy & Financing

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

*Non-residential Setting Summary Sheet*

<b>Heightened Scrutiny Identification Number</b>	HS-022
<b>Provider Name</b>	Eastern Colorado Services for the Developmentally Disabled, Inc.
<b>Setting Name</b>	
<b>Setting Address</b>	WITHHELD
<b>Compliant as of Date</b>	Expected to submit remaining evidence of compliance this summer, to be verified by 12/31/21.
<b>Date of This Evaluation</b>	May 6, 2021 <i>for public comment; updated July 28, 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**



Eastern Colorado Services for the Developmentally Disabled, Inc. provides day habilitation services for individuals receiving HCBS. The setting currently has an isolating effect on individuals as they do not have enough opportunities to leave.



**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 reached heightened scrutiny due to the insulating effects it has on individuals who rarely get to leave the setting to go into the greater community and have the opportunity to interact with non-disabled persons, other than staff. CDPHE has received the provider’s plan explaining how they intend to overcome this. State staff will complete a future site visit to verify that all plans have been implemented and integration has been achieved.</p>
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> Partial <input type="checkbox"/> No	<p>The settings 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.            42 CFR § 441.301(c)(4)(ii)</p>	<p>The setting is compliant with this requirement.</p> <p>In Colorado, case management agencies are responsible for</p> <ul style="list-style-type: none"> <li>• 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;</li> <li>• 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</li> <li>• supplying the person-centered support plan to provider agencies for implementation.</li> </ul> <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>



<input type="checkbox"/> Yes <input checked="" type="checkbox"/> Partial <input type="checkbox"/> No	<p>The setting ensures an individual's rights of privacy, dignity, respect, and freedom from coercion and restraint. 42 CFR § 441.301(c)(4)(iii)</p>	<p>This setting does not yet meet this requirement. Although the provider's policies on rights modifications include the correct process for first obtaining informed consent, it has not yet demonstrated the process has been followed. State staff have provided guidance in this area. Additionally, the setting does not consistently ensure dignity and respect, particularly through the lack of meaningful, age-appropriate activities for adults. The provider submitted a plan to retrain staff on age appropriateness and increase activity options. State staff will complete a future site visit to verify that all plans have been implemented and compliance has been achieved.</p>
<input type="checkbox"/> Yes <input type="checkbox"/> Partial <input checked="" type="checkbox"/> No	<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. 42 CFR § 441.301(c)(4)(iv)</p>	<p>The provider has trained all staff in person-centered thinking. The provider recently submitted plans to expand activities, both on site and into the community. The plans include training direct care staff in these areas. The provider indicated proof of training will be submitted. State staff will verify the plans have been implemented on a future site visit. Autonomy for individuals is also restricted at this site because of audio-monitoring systems installed on doors, which restricts being able to move freely through the site. There is one individual going through the rights modification process for use of the alarms. State staff have requested the provider submit a plan showing how the ability to come and go freely will be mitigated for all other participants.</p>
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> Partial <input type="checkbox"/> No	<p>The setting facilitates individual choice regarding services and supports, and who provides them. 42 CFR § 441.301(c)(4)(v)</p>	<p>While individuals do have a choice of providers, the setting does not offer adequate program activity options to appeal to a large group of adults. The provider's plans to increase integration and expand activities have been received. The plans are thorough and show multiple ways in which choice of activities will be expanded. Verification the plans have been implemented will be determined on a future site visit.</p>
<input type="checkbox"/> Yes <input type="checkbox"/> Partial <input type="checkbox"/> No <input checked="" type="checkbox"/> Not Applicable	<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</p>	<p>This a nonresidential site, so this requirement does not apply.</p>



	<p>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>42 CFR § 441.301(c)(4)(vi)(A)</i></p>	
<p><input type="checkbox"/> Yes  <input type="checkbox"/> Partial  <input type="checkbox"/> No  <input checked="" type="checkbox"/> Not Applicable</p>	<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>42 CFR § 441.301(c)(4)(vi)(B)</i></p>	<p>This a nonresidential site, so this requirement does not apply. Individuals do have privacy in restrooms and/or changing areas. Individuals have a secure place to store their belongings.</p>
<p><input type="checkbox"/> Yes  <input type="checkbox"/> Partial  <input checked="" 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>42 CFR § 441.301(c)(4)(vi)(C)</i></p>	<p>In addition to the audio-monitoring system, individuals do not have control over their schedules. The recent setting calendar included repetitive and remedial activities, such as playing Uno, coloring, reading, and writing, that do not reflect the interests and preferences of individuals. The provider stated in April 2021 that the setting intends to create an activity board in May 2021 to share individuals' ideas for age-appropriate, activities and increase their choices.</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>42 CFR § 441.301(c)(4)(vi)(D)</i></p>	<p>Yes, individuals may have any visitor they wish visit them 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>42 CFR § 441.301(c)(4)(vi)(D)</i></p>	<p>Yes, the site is physically accessible to all individuals.</p>
<p><input type="checkbox"/> Yes  <input checked="" type="checkbox"/> Partial  <input 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</p>	<p>The provider revised its policy for rights and rights modifications to correctly reflect all required steps. However, the correct process of modifying a right has not yet been demonstrated. State staff provided</p>



	<p>documented in the person-centered service plan:</p> <ol style="list-style-type: none"><li>(1) A specific and individualized assessed need.</li><li>(2) The positive interventions and supports used prior to any rights modifications.</li><li>(3) The less intrusive methods of meeting the need that were tried but did not work.</li><li>(4) A clear description of the rights modification that is directly proportionate to the specific assessed need.</li><li>(5) A plan for the regular collection and review of data to measure the ongoing effectiveness of the modification.</li><li>(6) Established time limits for periodic reviews to determine whether the modification is still necessary or can be terminated.</li><li>(7) The informed consent of the individual.</li><li>(8) An assurance that interventions and supports will cause no harm to the individual.</li></ol> <p><i>42 CFR § 441.301©(4)(vi)(F)</i></p>	<p>additional guidance in this area, including emails and webinar training links. A state-approved informed consent template with guidance has been sent to the provider. The provider will upload documentation the process was completed, and state staff will verify that rights modifications are completed correctly.</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. State staff also reviewed the provider's policies and procedures and other documents (listed below).

Through the PTP and record review, state staff determined the setting did not consistently reflect a program for adults. Many activities offered were designed for children. There were minimal opportunities for community integration, and the opportunities that were offered were limited. The setting was generally segregated from the broader community.

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(s) Calendar of Community Activities
- Activity Logs
- Lockers (photos)
- Redacted Informed Consent (for door alarms)
- Person-Centered Training Materials and Log

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

Summary of individual interviews:

There are no individual interviews to be summarized.

### **Summary of Stakeholder and Public Input; Department Responses**

The Individuals, Families and Advocates (IFA) survey results were reviewed and no comments were submitted for this setting.

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

The site needs to make the following changes to overcome heightened scrutiny and meet requirements:

- Develop programs to increase opportunities for community integration.
- Increase support for individuals to leave the setting and engage with the community.
- Implement the community integration plan.
- Have provider/staff participate in education and outreach on ways to overcome the institutional presumption.
- Train staff on HCBS requirements and how they vary from institutional requirements.



- Reduce individual-to-staff ratios and/or adjust staff responsibilities to increase individuals' opportunity to make independent choices about daily activities.
- Remove audio monitors or modify policies/procedures to align with requirements on rights and autonomy.

The provider has made efforts to incorporate positive changes to its programming and has completed training in person-centered principles. They revised all policies and procedures to eliminate broad restrictions.

State staff informed the provider via the PTP comment boxes of expectations for community integration, including that the provider must show “how many participants typically attend each day; operational changes that will be made to increase community integration, and the timeline for these changes to occur; specific steps the agency will take to increase support for individuals to leave the setting and engage with the community in a meaningful way; methods and strategies staff will use to promote regular interaction with non-disabled community members during outings/activities (other than staff); measures the agency will adopt to ensure such opportunities are available to every program participant. Include any special considerations for the groups that historically did not access the community at all; Post-pandemic, how often individuals will have the opportunity to engage in activities with individuals without disabilities; include the breakdown of community-based activities and reverse integration; how the agency will ensure age-appropriate activities are provided within the setting; how the agency will train staff on new expectations. Include points that will be covered and strategies staff will be expected to utilize. At minimum, staff must understand that “leaving the building” does not equate to community inclusion; how the agency will monitor services to ensure community inclusion is a fundamental aspect of programming on an on-going basis; any other relevant information showing how programming will no longer isolate individuals from the broader community.

Plans to expand activities, choices, and achieve community integration have been received. The provider also submitted plans to train staff on age-appropriateness. In addition, the provider is in-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 are fully remediated.

**Additional Comments**

*No public comments were received regarding this setting.*