



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

Adult Residential Setting Summary Sheet

Heightened Scrutiny Identification Number	HS-036
Provider Name	Mountainview Gardens
Setting Name	
Setting Address	WITHHELD
Compliant as of Date	Expected to submit remaining evidence of compliance this summer, to be verified by 12/31/21
Date of This Evaluation	06/22/2020 Updated 4/28/2021 <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 Alternative Care Facility (ACF) that provides support and services to individuals that are elderly, blind, and disabled. The setting supports 13 individuals, N/R are waiver participants. During the state visit, individuals were observed coming and going from the home and relaxing outdoors. The home is located near a bus line for easy transportation access.



Based on a visit to Mountainview Garden ACF, the provider gave sufficient explanation about how individuals are independence and access the community. A 2nd visit may be necessary to ensure community integration is occurring per the responsibility of the provider.



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>42 CFR 441.304(c)(4)(i)</i></p>	<p>Most individuals in the home have the skill to access the community independently. The calendar submitted were activities held at the ACF such as bible study, walks, painting, crafts, music, movie and popcorn and boardgames. The most recent calendar does not support community integration. The provider will submit a new calendar reflecting community integration once more COVID restrictions are lifted.</p>
<input type="checkbox"/> Yes <input checked="" 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. <i>42 CFR § 441.301(c)(4)(ii)</i></p>	<p>The provider will be submitting proof of a support plan from the case manager or develop a section in their care plan of individuals having a choice of setting options.</p>
<input checked="" type="checkbox"/> Yes <input 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. <i>42 CFR § 441.301(c)(4)(iii)</i></p>	<p>Individuals have right to their own phone or access to a house phone. The setting does not implement any kind of restraint.</p>



<p>42 CFR § 441.301(c)(4)(iv)</p> <p><input type="checkbox"/> Yes <input checked="" 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.</p>	<p>The provider has modified House Rules, specifying individuals have full use of all common areas, however, they don't allow individuals behind the kitchen counter. Time restraints have been removed as to when individuals have access to patio. The laundry and shower schedule has been removed from the House Rules.</p>
<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> Partial <input type="checkbox"/> No</p>	<p>The setting facilitates individual choice regarding services and supports, and who provides them. 42 CFR § 441.301(c)(4)(v)</p>	<p>The setting facilitates individual choice regarding services and supports, and who provides them.</p>
<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> Partial <input type="checkbox"/> No</p>	<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. 42 CFR § 441.301(c)(4)(vi)(A)</p>	<p>The provider uploaded a Residential Agreement on 9/18/2019, however, proof of compliance was missing in several areas. The provider will need to include information on protection against eviction, explain where to locate the process to dispute and seek review of any notice to move. The legal authority needs to be added as well as the specified location of the individual's room and their refund policy regarding situations other than moving without notice.</p>
<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> Partial <input type="checkbox"/> No</p>	<p>Each individual has privacy in their sleeping or living unit: (1) Units have entrance doors lockable by the individual, with only</p>	<p>The provider will need to submit evidence that individuals have a key to their home and a lock and key to their bedrooms. All individuals are allowed to furnish and decorate their space to their own personal taste.</p>



	<p>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>	
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> Partial <input type="checkbox"/> No	<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>The House Rules do not allow individuals in the kitchen behind the counters, and individuals who are able to cook safely are not allowed to do so, independently. During the state visit, a padlock was observed fixed to the kitchen door. The kitchen is kept lock meals are not being served. The House Rules also state individuals must follow doctors order for alcohol consumption. All residents are required to keep showers under 20 minutes. The House Rules will be revised to allow individuals free access to the kitchen at all times as well as access behind the counter. The House Rules will also remove doctor's orders to allow the consumption of alcohol. Shower time will be removed from the house rule and addressed on an individual basis.</p>
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> Partial <input type="checkbox"/> No	<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>The House Rules were noted to be restrictive, only allowing visitors only between 8 a.m. and 8 p.m. The House Rules have been revised, to allow for visitors outside these times, as long as they are signed in.</p>
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> Partial <input type="checkbox"/> No	<p>The setting is physically accessible to the individual. <i>42 CFR § 441.301(c)(4)(vi)(E)</i></p>	<p>The setting is physically accessible.</p>
<input type="checkbox"/> Yes <input type="checkbox"/> Partial <input checked="" type="checkbox"/> No	<p>Any rights modifications are supported by a specific assessed need and justified in the person-centered service plan. The following</p>	<p>The provider revised some of the House Rules. There are still many House Rules that need to be revised or removed, such as access to the kitchen, doctors' order for alcohol consumption and limited shower time to prevent broad rights modifications. The provider will submit proof individuals have received all the revised House Rules</p>



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	<p>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. <p><i>42 CFR § 441.301(c)(4)(vi)(F)</i></p>	<p>to ensure they understand them. The provider has not yet submitted evidence of person-centered training.</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

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:

Very nice home and two individuals interviewed stated they really like living at this ACF. The individuals that were interviewed were asked about the restrictive rules including: smoking limitations, being out past “a curfew”, drinking, needing to pay for incontinence accidents. The individuals stated, that even though they do not have issues of incontinence, wanting to drink or stay out past “curfew”, they are indeed rules. These comments were received after the provider stated that even though there are these rules they are not implemented. Review of the most recent House Rules state that only non-Medicaid individuals have to pay for incontinence accidents.

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

As described above, state staff have verified via desk review the implementation of a number of required changes to policies and procedures and other provider documents. State staff will visit this setting upon the provider’s confirmation that it has finished implementing the remaining changes, in order to confirm that this is the case.

Additional Comments

State staff will have a second visit once the provider submits all required updated documents and other required evidence to ensure full compliance with the HCBS Settings Final Rule.

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

No public comments were received regarding this setting.



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