



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

*Non-Residential Setting Summary Sheet*

<b>Heightened Scrutiny Identification Number</b>	HS-040
<b>Provider Name</b>	Pueblo Diversified Industries
<b>Setting Name</b>	
<b>Setting Address</b>	2828 Granada Blvd, Pueblo, CO 81005
<b>Compliant as of Date</b>	Expected to submit remaining evidence of compliance this summer, to be verified by December 31, 2021
<b>Date of This Evaluation</b>	April 28, 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**

This setting providers services to over 100 individuals, for day habilitation services. An initial visit by state staff was conducted on 6/8/2016. This visit demonstrated nearly no community integration and many of the site-based activities were not age-appropriate, or engaging for the individuals. These activities included playing with beads in a jar and coloring. The facility was set up with various classroom settings. A second visit was completed by state staff on 10/15/2018, at which time the provider had made progress with age-appropriate activities that had a more adult theme, and individual choice in the "classroom" activity individuals could attend. Examples included a cognitive-based program that focused on reading and writing with a theme that would then lead into having a professional come and talk to the group about the topic they were learning about, such as turtle care. The golden opportunity room was for individuals who preferred a slower pace to work on fine and gross



motor skills, as well as life skills. The setting had an art studio for painting. One of the areas observed during the visit, referred to as the Intensive Habilitation program, was mostly individuals sitting at tables with nothing to engage in. One person was playing with beads in a jar. There was also a small area used as a library where individuals could relax. The setting also had its own gym. The provider has since increased opportunities for individuals to participate in activities considered to be "reverse integration", such as instructors coming into the facility to lead yoga, music and ceramics. Their Pre-Vocational services have a baseline learning program with a mock Thrift store, hospitality room, classroom for resumes, office repair and card making which can then be sold in the community. All these activities are completed at the base-site. During the last visit by state staff, the provider explained they want to develop a program that encouraged the community to come into the setting. During the second visit with state staff, it was explained reverse integration should not be the focus of services and individuals need more exposure and access to their community. The provider will be submitting a detailed plan to ensure all individuals have the opportunity to be active out in the community with non-disabled, non-staff persons.



### Compliance Summary

Compliant?	Federal Requirement	Summary of Evidence of Compliance
<input type="checkbox"/> Yes <input type="checkbox"/> Partial <input checked="" type="checkbox"/> No	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>The setting does not promote regular community integration and is set up more for base-site activities than for individuals to access the community. Various activities continue to focus on grouping by individuals' needs, such as the cognitive based room that focuses on reading and writing, then possibly inviting a professional to visit the site to talk about the topic they are reading and writing about. There is a Golden Opportunity room for people who operate at a "slower pace". The Art Studio, also located at the site, focuses on painting. Individuals will sometimes go out to an art museum or other studios in the community. The Intensive Habilitation room focuses on fine and gross motor skills at the setting. Observation during the state staffs visit was that most individuals were sitting at tables, not engaged in an activity. One individual in the "Intensive Habilitation" room was playing with beads in a jar. The gym, also located in the base site, has workout equipment and will hold yoga classes, in which an instructor will come in to teach. Activity calendars support community integration for some individuals going to the zoo, local library, bingo at a local lodge, and museum exhibits. Yoga at a community yoga studio was listed on the calendar, but individuals have to pay to attend.</p> <p>The provider is developing a post-COVID 19 plan for individuals to have the opportunity to be supported to participate in more community integrated activities. Individuals will be able to choose their community activities. The provider will submit proof of implementation of their plan once COVID restrictions are lifted. State staff will review the community integration plan, once submitted by the provider. A final verification of implementation of their plan will be determined during a future site visit.</p> <p><i>Update: stakeholders stated at a town hall meeting that the day program is open to the community and that participants have opportunities to engage in community life. As explained in more detail below, the Department appreciates these comments and, at the same time, believes the provider still must take additional action to be in full compliance.</i></p>
<input type="checkbox"/> Yes <input type="checkbox"/> Partial <input type="checkbox"/> No <input checked="" type="checkbox"/> Not Applicable	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	All individuals in this setting have a service plan documenting that choice of services and setting are offered.  In Colorado, case management agencies are responsible for



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	<p>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>	<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 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>The provider supports individuals to ensure their rights of privacy, dignity, respect and freedom from coercion and restraint.</p>
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> Partial <input 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. <i>42 CFR § 441.301(c)(4)(iv)</i></p>	<p>The provider has submitted calendars of activities that support numerous choices of daily activities at the site. The provider will submit a plan for review to increase community integration with various choices to participate in daily. A final verification of implementation of their plan will be determined during a future site visit.</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. <i>42 CFR § 441.301(c)(4)(v)</i></p>	<p>The setting does not always support choice of services and who provides them. The provider has been following the wishes of various guardians who request their family member do not go out into the community. The provider will obtain proof of guardianship while educating guardians, families, individuals, and staff and will ensure they offer community activities to individuals. Final verification of implementation of their plan will be determined during a future site visit</p>



<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>42 CFR § 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. (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>	This a nonresidential site, so this requirement does not apply.
<input checked="" type="checkbox"/> Yes <input 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>42 CFR § 441.301(c)(4)(vi)(C)</i>	Yes, individuals at this setting can control their schedules and activities and can eat at any time.
<input type="checkbox"/> Yes <input type="checkbox"/> Partial <input type="checkbox"/> No <input checked="" type="checkbox"/> Not Applicable	Individuals are able to have visitors of their choosing at any time. <i>42 CFR § 441.301(c)(4)(vi)(D)</i>	The setting supports individuals to have visitors at any time.
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> Partial <input type="checkbox"/> No	The setting is physically accessible to the individual. <i>42 CFR § 441.301(c)(4)(vi)(E)</i>	The site is fully 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:	The provider has submitted proof of a person-centered planning training. The Informed Consent policy outlines all the expectations anytime a rights modification is recommended as well as the process for completing the Informed Consent. The provider has also submitted an example of a completed form,



<p>(1) A specific and individualized assessed need.</p> <p>(2) The positive interventions and supports used prior to any rights modifications.</p> <p>(3) The less intrusive methods of meeting the need that were tried but did not work.</p> <p>(4) A clear description of the rights modification that is directly proportionate to the specific assessed need.</p> <p>(5) A plan for the regular collection and review of data to measure the ongoing effectiveness of the modification.</p> <p>(6) Established time limits for periodic reviews to determine whether the modification is still necessary or can be terminated.</p> <p>(7) The informed consent of the individual.</p> <p>(8) An assurance that interventions and supports will cause no harm to the individual.</p> <p><i>42 CFR § 441.301(c)(4)(vi)(F)</i></p>		<p>following the guidance in the state approved template of the Informed Consent form.</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
- Dispute Resolution Policy
- Recent Month(s) Calendar of Community Activities
- Program Handbook 2020
- Individual Rights and Responsibilities Sign-off Sheet
- Informed Consent Policy
- Assessing People's Abilities to Exercise Their Rights (document)
- Person-Centered Planning for IDD Relias Training (screen shot)

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

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

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

One individual who attends this setting self-reported that at this setting, they do the following activities: "games, crafts, party planning, parties, dances, exercise, karaoke, social skills, math, science, English, current news, gardening, assemblies, presentations." Additionally, this individual shared that they are able to keep their belongings locked up, if they wish.

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

The site needs to make the following changes to meet requirements:

- Enhance support for individuals to develop general strengths and skills that will lead to employment.
- Promote interaction between individuals and people without disabilities (other than staff).
- Modify rules, policies, procedures, or practices on community integration.
- Have provider/staff participation in community integration education and outreach.
- Develop programs that increase opportunities for community integration.
- Increase support for individuals to leave the setting and engage with the community.
- Train individuals on how to access the greater community.
- Purchase vehicles and hire staff to provide additional support for leaving the setting and finding employment.

State staff will visit the setting to verify implementation of these steps once the provider is able to fully implement its plan, after pandemic restrictions have been lifted.



#### **Additional Comments**

*Two stakeholders commented about this setting during the 6/30/21 town hall. One parent shared that their adult child has been going to Pueblo Diversified Industries (PDI) for many years, that they are very happy with the services that the individual has received, and that the individual has had many opportunities to go out into the community. The parent also stated that PDI has helped the individual improve life skills and maintain the skills that were learned in school.*

*Another parent commented that their child is currently ten years old (too young for the adult waivers served by this provider), but visits PDI and learns from the individual's peers and friends. The parent stated that the individual's friends are on-site and seen out at the mall. Individuals who attend PDI introduce themselves and are the face of Pueblo. The parent stated that PDI does not just take care of adults in services, but also takes care of the entire community, including children like this parent's. The parent went on to say that PDI is open to the community with its day program, online/virtual services, and Supported Community Connections. This parent hopes that when their child turns 21, the individual can go to PDI and can be independent enough to live in a host home. The parent cannot wait for the individual to be old enough to get into the program.*

*The Department appreciates that these families value this program. At the same time, compliance with the HCBS Settings Final Rule is not a matter of subjective consumer satisfaction (or expected satisfaction). Rather, it is a matter of objectively demonstrating that specific federal criteria are met. At this time, the provider still has a number of compliance requirements that need to be met, including several specifically related to community integration. The provider must support individuals to engage not just with other program participants (although these activities may be enjoyable), but also with other members of the community. Although some engagement with community members is supported through reverse integration and occasional off-site activities, more needs to be done. The Department believes that the provider can achieve compliance by making the changes described above.*