



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

### *Nonresidential Setting Summary Sheet*

<b>Heightened Scrutiny Identification Number</b>	HS-049
<b>Provider Name</b>	Pueblo Regional Center
<b>Setting Name</b>	
<b>Setting Address</b>	270 W. John Powell Blvd., Pueblo West, CO 81007
<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>	May 11, 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**

This setting provides day habilitation for individuals with an intellectual or developmental disability. It was flagged for heightened scrutiny because of its potential to isolate individuals receiving HCBS from the broader community. It is located adjacent to the provider's administration office in a remote area of Pueblo West. There are no other businesses or homes nearby. The provider has made significant progress with updates and revisions to its policies and procedures to ensure that services are person-centered, including recognizing the individual's preferences, input, and decisions regarding their services. All staff have been trained in person-centered principles, and the provider's leadership embraces the values of the HCBS Settings Final Rule. Final verification of compliance for these services, including ensuring that all individuals have the opportunity to be active in the community, will be obtained via a state staff visit.



## 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. <i>42 C.F.R. § 441.304(c)(4)(i).</i>	Currently, individuals at this setting rarely have the opportunity to interact with non-disabled people, except for staff members. In addition, individuals do not yet leave the setting very often. Individuals will benefit from staff supporting them to learn about and explore what activities and events are available in the greater community. The provider submitted a plan to shift its services from being primarily site-based to being inclusive and active in the community. It will work with individuals and their families to discuss interests and preferences. In turn, staff will be trained on the new service model, with small groups being active in the community. The provider stated that under the new model, individuals will be in the community 50% to 70% of the time. The provider will ensure that all individuals, including those with mobility and medical care needs, are active and engaged. State staff will complete a site visit, after pandemic-related restrictions are eased and once the provider has been able to implement its plan, to verify that individuals are able to engage in community life.
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> Partial <input type="checkbox"/> No	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. § 441.301(c)(4)(ii).</i>	In Colorado, case management agencies are responsible for <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> 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.  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



		<p>compliance issues such as telling individuals that they must receive services there, even if they would prefer something else.</p> <p>This provider's admission policy initially did not recognize individuals' right to accept or decline services. The provider updated the policy to be person-centered and to recognize the right to choose or decline services, including the option to work with one's case manager to move to another setting without waiting for this provider to complete an assessment and decide whether and when an individual may consider a change in their provider and services.</p>
<input type="checkbox"/> Yes <input checked="" 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.</i> § 441.301(c)(4)(iii).	<p>The provider submitted evidence, including a picture, showing that it installed lockers for individuals to use to keep their belongings safe. The provider revised the grievance policy and dispute policy to ensure that individuals understand the two unique processes and how to follow them if needed. For the grievance/complaint procedure, individuals and others are now able to submit a complaint at any time, rather than within only fourteen days of their concern. External contacts have been added to this procedure, making sure individuals can request assistance when desired. These contacts will be added to the dispute procedure by the provider as well.</p> <p>Policies and procedures also reflect that restraints will not be used unless all required processes are followed, including obtaining informed consent for individuals who are anticipated to sometimes need physical holds. The sample informed consent for use of a restraint did not yet meet required elements, so the provider will use the state template and follow all guidance, then submit a new sample completed form.</p>
<input type="checkbox"/> Yes <input type="checkbox"/> Partial <input checked="" 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.</i> § 441.301(c)(4)(iv).	State staff asked for evidence of how the provider determines that activities and events meet individuals' preferences and needs, including activities that take place in the greater community. The setting does not yet seek input from individuals in planning age-appropriate activities. State staff will verify the provider's expected remediation of this issue.
<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.</i> § 441.301(c)(4)(v).	Yes, the setting promotes choice for individuals when it comes to services and supports and who provides them.
<input 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	This is a nonresidential setting, so this requirement does not apply.



<input checked="" type="checkbox"/> Not Applicable	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.</i> § 441.301(c)(4)(vi)(A).	
<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>Id.</i> § 441.301(c)(4)(vi)(B).	This a nonresidential setting, so this requirement does not apply.
<input type="checkbox"/> Yes <input type="checkbox"/> Partial <input checked="" type="checkbox"/> No	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).	The setting does not yet have evidence that individuals are choosing their own schedules, including what time of day and which type of programming they would like to attend.
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> Partial <input type="checkbox"/> No	Individuals are able to have visitors of their choosing at any time. <i>Id.</i> § 441.301(c)(4)(vi)(D).	Yes, individuals may have visitors when they wish.
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> Partial <input type="checkbox"/> No	The setting is physically accessible to the individual. <i>Id.</i> § 441.301(c)(4)(vi)(E).	Yes, the site is fully accessible to all individuals.
<input type="checkbox"/> Yes <input checked="" 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: (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	The rights modification policy was updated to reflect the criteria outlined in this requirement. However, sample informed consent forms did not follow the required process to ensure that individuals (or their guardians, if legally authorized to make these decisions) are able to carefully consider a proposed rights modification. More than one rights modification was included on the form, and details for each modification regarding the assessed need, interventions or less intrusive methods tried before, a plan for how each modification will be reviewed for progress and effectiveness, and how staff will mitigate each modification, were not carefully explained for the individual to understand and give consent. The provider will review guidance sent by the state, within the template, then complete and



<p>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>Id.</i> § 441.301(c)(4)(vi)(F).</p>	<p>submit at least two sample informed consent forms to verify that it is following the updated policies and procedures.</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
- Draft Day Program update for participants
- Rights of Individuals (with pictures)
- Community Integration Implementation Plan
- Evidence of Locker Purchase (image of lockers and invoice)
- Informed Consent Samples (PHI removed)
- Informed Consent -- Rights Modification
- Admission Policy
- Materials Relating to Staff Training on Person-Centered Thinking
- Grievance/Dispute Policy – Plain Language
- Grievance Flow Chart
- Dispute Resolution Policy Flow Chart

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.

The Individual/Family/Advocate (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 meet requirements:

- Increase support for individuals to leave the setting and engage with the community.
- Submit a Dispute Resolution Policy with external contacts.
- Train managers and staff regarding the shift in services from being primarily site-based to being primarily community-integrated.
- Develop a means to offer choices, based on interests and preferences, to significantly increase individuals' opportunities for community integration, including support to ensure individuals are able to be engaged with non-disabled, non-staff persons in their community.
- Work with individuals to explore new activities that they may not yet have had the opportunity to participate in, which may include local recreation center classes, volunteering, special events, local school sporting or other events, etc.

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.



## COLORADO

Department of Health Care  
Policy & Financing

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#### Additional Comments

*No public comments were received regarding this setting.*