



COLORADO

Department of Health Care
Policy & Financing

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

Non-Residential Setting Summary Sheet

Heightened Scrutiny Identification Number	HS-050
Provider Name	Silver Oak
Setting Name	
Setting Address	2245 S. Peoria St., Aurora, CO 80014
Compliant as of Date	Expected to submit remaining evidence of compliance this summer, to be verified by December 31, 2021
Date of This Evaluation	May 4, 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
Silver Oak is an Adult Day Services setting that offers individual day services and supports. The setting is designated as heightened scrutiny, due to the calendar submitted offering individuals only on-site activities, and therefore isolating them from the broader community. The provider has revised a number policies and procedures to comply with the requirements of the HCBS Settings Final Rule. The grievance policy remains out of compliance, needing external contacts included. The provider has continued to submit revisions and has created a plan to provide community-based services.



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 calendar of activities submitted and reviewed by state staff, were indicative of an isolating HCBS setting. The provider has submitted a plan to provide services in a community integrated manner. The plan includes various potential community activities that will be offered to individuals, once COVID-19 restrictions are lifted. The activities included, museums, shopping, cultural events, theater clubs, sporting events, community classes, etc. The provider also has a van to assist individuals with transportation. The plan also notes that they will offer individual opportunities, as requested, as well as group activities. The provider is prepared to submit a calendar of activities, meeting the community integration requirements of the Settings Final Rule, once restrictions are lifted. The provider also completed a remedial action plan to ensure that staff do not wear name tags while in the community, setting individuals apart from the greater community.</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. 42 C.F.R. § 441.301(c)(4)(ii).</p>	<p>The setting is selected by the individual from among setting options and documented in the person-centered plan.</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>



		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.
<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. 42 C.F.R. § 441.301(c)(4)(iii).	The provider completed a remedial action plan to ensure individual's rights of privacy, dignity, respect, and freedom from coercion and restraint are intact. The provider will no longer use staff name tags while in the community, identifying the individuals in services from the greater community. The physical intervention policy was revised to reflect that the provider does not use restraints of any kind.
<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. 42 CFR § 441.301(c)(4)(iv)	Individuals in the setting can exercise initiative, autonomy, and independence in making life choices. Revisions to policies and procedures were completed, ensuring that individuals are able to come and go from the setting as they wish. There are no longer alarms on the setting doors and individuals are not required to stay at the program for a minimum amount of time.
<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. 42 CFR § 441.301(c)(4)(v)	The provider facilitates individual choice regarding services and supports and who provides them. The choice of setting is documented in individual person-centered plans.
<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. 42 CFR § 441.301(c)(4)(vi)(A)	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.	This a nonresidential site, so this does not apply. Individuals do have an area to secure their personal belongings.



	<p>(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 checked="" type="checkbox"/> Yes <input 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>Individuals in the setting have the freedom and support to set their own schedules, including choice of days for attendance. They also have access to food at any time.</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>Individuals are able to have visitors at any time. There are no broad restrictions around visitors.</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 fully accessible to all individuals.</p>
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> Partial <input type="checkbox"/> No	<p>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 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>42 CFR § 441.301(c)(4)(vi)(F)</i></p>	<p>The setting has ensured that any rights modification will be supported by a specific assessed need, have documented informed consent and be justified in the person-centered plan. At the time of the assessment, no individuals in the setting had a rights modification.</p>



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 - Arabic
- Rights of Persons Handout - Somali
- Grievance/Complaint Policy
- Medication Policy
- Mistreatment Policy
- Physical Intervention Policy
- Incident Reporting Policy
- Recent Month Calendar of Community Activities
- Staff Training Certificate
- Person-Centered Training Log
- Person-Centered Tools
- Admissions/Discharge Policy

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

The setting has made significant progress towards compliance with the HCBS Settings Final Rule. Community integration and the grievance policy remain out of compliance. The provider has submitted a plan to ensure integration once community restrictions allow. At that time, the provider is prepared to also submit a compliant calendar as evidence. The grievance policy requires revisions to the external contacts provided to individuals to assist with grievances. The provider listed the Colorado Department of Public Health and Environment as an external contact to assist the individual with a complaint. This is also an entity that can accept formal complaints to investigate, rather than an organization that would support an individual to make a complaint. The provider will identify other external contacts. The setting has identified a person-centered thinking training to ensure all staff are trained and the policies are reflective of person-first language.

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 the following comments were submitted for this setting:

- "I am happy with the services I receive at Silver oak."
- An example community activity was: "I go to the Somali Community Center, to get help with food, clothes and referrals."

No public comments were received regarding this setting.

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

To overcome lack of community integration, the site needs to:

- Increase support for individuals to leave the setting and engage with the community, ensuring individuals can attend activities off-site.
- The setting must do the following to meet requirement 42 CFR § 441.301(c)(4)(iii):



- Revise grievance policy to include external contacts (with phone numbers) to assist with the grievance process, including phone numbers.

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.