



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

Nonresidential Setting Summary Sheet

Heightened Scrutiny Identification Number	HS-052
Provider Name	The Roost Training Center
Setting Name	
Setting Address	Withheld, Lafayette CO 80026
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 3, 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 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
The Roost Training Center is a Day Habilitation setting that currently offers Prevocational and Specialized Habilitation services for individuals with intellectual and developmental disabilities. The setting is subject to heightened scrutiny due to the effect of isolating individuals receiving services from the broader community. Individuals stay at the setting, working on creating products sold for two hours each morning from the site, including woodwork, seasonal décor, stationary and party products. The provider also engages individuals in games and other activities at the base site, as a part of their services. Opportunities for individuals to be in the community, interacting with non-disabled, non-staff



persons, is very limited. The provider for this setting submitted a community integration plan, which will be implemented once the pandemic no longer prohibits integration and individuals are safely able to access the community. State staff will schedule a visit once this plan has been implemented, to verify final compliance.



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>To meet this requirement, the setting needs to ensure individuals have access to the greater community to the same degree as individuals not receiving HCBS. Based on the description and documentation submitted by the provider so far, the setting has not yet complied with community integration requirements. In the community integration description, the prevocational and specialized habilitation services have offered a variety of activities on-site at the facility. In addition, a store is also located at the provider owned and operated day program site. While bringing the community in to visit the store two hours, four days per week, offers some opportunity for certain individuals to interact with persons from the community, the setting will need to provide opportunities for individuals to leave the setting and engage with the broader community.</p> <p><i>Update: many stakeholders expressed support for this day program and questioned the need for changes that would support further community integration. These comments are addressed in more detail below.</i></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 CFR § 441.301(c)(4)(ii).</p>	<p>The setting options are identified and documented in the person-centered service plan and are based on the individual's needs and preferences.</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> <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 setting is working to ensure that the complete eight steps of a rights modification, including informed consent, will be followed when the provider is considering a plan to possibly need to restrain an individual, The provider has confirmed no individuals currently have any rights modifications in place.</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 setting is working to ensure individuals are given autonomy when choosing their daily activities, allowing them to learn new non-job-related skills. Individuals can choose which work group they would like to participate in. The provider is working with staff and the individuals to access public transportation more often to expand additional options for community outings. The provider takes members of each work crew out into the community weekly to purchase supplies for their products. While out in the community the staff helps them interact with non-disabled community members by providing them a list of supplies and prompting them to ask an employee to assist when needed when purchasing the items. The provider holds Co-Op meetings with individuals at local coffee shops.</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>Activities at the setting are primarily determined by the products made by the individuals receiving services. Individuals are able to choose the site-based activities they participate in. Some individuals are offered a choice to shop for supplies but most individual remain at the setting.</p>
<input type="checkbox"/> Yes	<p>The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally</p>	<p>The setting is nonresidential, and therefore this requirement is not applicable.</p>



<input type="checkbox"/> Partial <input type="checkbox"/> No <input checked="" type="checkbox"/> Not Applicable	<p>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></p>	
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> Partial <input type="checkbox"/> No	<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>The setting confirmed people receiving services are able to secure their personal belongings if they choose to in a locker box. They may use their own lock or a lock may be provided.</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>The setting's choices of activities are primarily determined by the products the individuals have been making. Individuals have access to their food at any time.</p>
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> Partial	<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 of their choosing at any time.</p>



<input type="checkbox"/> No		
<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 setting is accessible to 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 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.	The provider will ensure any proposed rights modifications, including safety control procedures, are supported by a specific assessed need and include informed consent. The provider completed a remediation plan to ensure all staff have been trained in person-centered thinking principles.



	42 CFR § 441.301(c)(4)(vi)(F)	
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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
- Grievance/Complaint Policy
- Medication Policy
- Mistreatment Policy
- Physical Intervention Policy
- Incident Reporting Policy
- Dispute Resolution Policy
- Recent Month Calendar of Community Activities
- Community Integration Plan
- Person Centered Language Training
- Person Centered Validation Method Training
- Person Centered Activity Planning
- 2019 Summer SCC Program for June, July, and August
- The Roost Written Plan for Community Integration C1-8
- The Roost Training Center Program Schedule
- Person-centered PowerPoint presentation slide, handout, and quiz
- Safety Control Procedure
- The Roost Updated Community Integration Plan

The provider will ensure updates are made to the Resident Rights and Safety Control Procedure Policies. The provider has ensured all staff have completed training in person-centered thinking.

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 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

As of 4/14/21, person-centered training evidence has been submitted in the form of training slides, handouts and quiz.

The community integration plan originally submitted did not meet the Settings Final Rule requirements. As of 4/23/21 a new plan was submitted. The setting will ensure support for full access to the greater community to all individuals. In addition, a store is also located at the setting. Bringing the community in to visit the store for two hours each morning offers some opportunity for a few individuals to interact with non-disabled, non-staff persons from the community. The provider will implement a new approach to services, to ensure all individuals have the opportunity to leave the setting and engage in the community outside of their typical setting, such as participating in activities at the rec center, library,



local shops and restaurants. The provider is working with local businesses to ensure more volunteer options can be available for individuals.

Additional Comments

The setting must submit evidence that their community integration plan has been implemented and meets all requirements for community integration as set forth by the Settings Final Rule.

State staff will complete verification of compliance in a future site visit.

The Department received nearly 80 comments—via mail, email, and during the public town hall meetings—from day program participants, friends and relatives of participants, and community members. (Some stakeholders commented multiple times. Separate comments from the same stakeholder are counted separately in this tally, but exact duplicates received by both hard copy and email are counted only once.) The Department thanks all those who took the time to share their experiences and engage in this public comment process. Several broad themes emerged from the public comments; the Department addresses each in turn below.

Basis for heightened scrutiny

More than one third of commenters disagreed with the labeling of the setting as subject to heightened scrutiny and with what they perceived to be the Department's labeling of the setting as an institution. Comments included that it is not a 24/7 institution and is not segregating or isolating. The Department appreciates these comments and wishes to clarify that it has not labeled the setting as an institution; rather, it has determined that the setting's insufficient support for community integration created the potential to isolate individuals from the broader community, which is an institutional characteristic and meant that the setting was in a gray area subject to CMS review (heightened scrutiny). A setting does not need to be a 24/7 facility to be subject to heightened scrutiny on this (or any other) basis. The Department believes that with changes, the setting can demonstrate full compliance with HCBS Settings Final Rule requirements—i.e., that it is not institutional.

Roughly one third of commenters thought that the heightened scrutiny designation was a result of the COVID-19 pandemic and the setting's inability to take members out into the community in 2020. To clarify, the setting is not subject to heightened scrutiny due to its inability to take members out in the community during 2020, as that was the case with all day program providers across the state and even the country. The Department is not designating all day programs for heightened scrutiny. The designation was appropriate for this day program in particular because of its unique potential to isolate (without regard to the pandemic). Some other day programs are in a similar position as the Roost and are also being put forward to CMS under the heightened scrutiny process.

Allowability of existing programming

Almost all commenters expressed concern that the setting would be required to eliminate its current congregate, site-based programming, which is valued by individuals and family members, due to the heightened scrutiny designation. The Department responded to these comments by explaining that the setting does not need to eliminate the current programming that is offered; instead, it needs to expand the programming to include additional supports for community integrated activities for those individuals that would like to go out into the community more or would benefit from trying such activities to see whether they like them.

Roughly one third of commenters expressed concern that the setting would be forced to close due to the heightened scrutiny designation. The Department responded to these comments by stating that it was not the intention to close the setting, as the Department believes the setting ultimately will be able to comply, which is why the setting's evidence is being submitted to CMS.



Expectations for community integration

More than one third of commenters mentioned how the setting was able to transition quickly during the COVID-19 pandemic to offering a variety of online classes and opportunities for individuals to stay connected with one another, despite having to be apart. These activities included a book club, poetry writing class, cooking and fitness classes, and virtual visits to interesting places around the world. Additionally, the setting delivered work boxes for greeting cards that were completed at home by the individuals and then exchanged the following week for a new work box. The Department acknowledges the creativity and innovation that this setting demonstrated to keep individuals engaged with one another when they could not be physically together. At the same time, the provider should support individuals to engage virtually not just with other program participants (although these activities may be enjoyable), but also with other members of the community.

A number of commenters expressed concern over the need for the setting to demonstrate compliance with community integration and were worried that this meant that members would be forced out into the community against their desires. The Department responded by stating that complying with community integration simply means that the provider needs to offer additional opportunities and supports for members to access the community and that it will be entirely up to each individual to determine whether or not they feel comfortable participating in the offered activities or would prefer to stay back at the setting. In addition, for those that prefer to remain at the setting, community integration can still be supported: for example, by supporting individuals in accessing typical online virtual/remote events (such as classes or clubs sponsored by non-provider organizations and joined by people not receiving waiver services).

A handful of comments acknowledged that the setting could integrate some additional opportunities for community access for individuals into the current programming, but the commenters felt that the setting did currently offer some beneficial experiences for community engagement. The Department appreciates these comments and agrees that the current programming may be beneficial; however, the setting needs to offer additional community integrated activities in order to be in compliance with federal regulations.

A handful of commenters stated that the setting is not the only venue through which individuals can access the community. While the Department agrees that the setting is not the only venue through which individuals can access the greater community, it is required for individuals to be given the opportunity to access the greater community through the setting, if they so choose. An individual can still choose to participate in site-based, congregate activities if they receive sufficient community integration through other aspects of their life or are otherwise uninterested in the offered outside activities.

More than half of commenters stated that the setting provides individuals with a sense of community and that everyone at the setting is like family and cares deeply for one another. The Department appreciates these comments; however, in addition to providing a sense of community and natural supports within the setting, the expectation based on the HCBS Settings Final Rule, is that individuals will also have the opportunity to interact with and create natural supports and relationships with those outside of the setting as well.

Value of day program

Nearly all commenters mentioned the sense of ownership and satisfaction that individuals have in the work that they do while at the setting. Comments included that individuals are proud to create and sell their products at pop-up markets, have business cards to share with others, and show family and friends what they created while at the setting. Relatedly, some commenters indicated that the participants and their family members know best what works for them, and the fact that they chose the



Roost should be uncontested. The Department appreciates that so many individuals and family members value this program. At the same time, compliance with the HCBS Settings Final Rule is not simply a matter of subjective consumer satisfaction or the fact that a setting has participants who chose to be there. Rather, it is a matter of objectively demonstrating that specific federal criteria are met. As CMS noted in the preamble to the HCBS Settings Final Rule, to be reimbursed under HCBS authorities, settings must meet all of the HCBS criteria. CMS specifically rejected a suggestion “that if we retain the heightened scrutiny of settings described in this section, then we should modify the regulation to include an exception from the requirement if the client, the client’s designated representative and client’s case manager believe it is in the client’s best interest to be allowed to live in such a setting.” The Department expects that when the provider has finished implementing all remaining required changes, the day program will still be valuable to and a source of satisfaction for participants and family members.

More than a quarter of commenters mentioned improvements in confidence, attention span, and the overall maturity and happiness of individuals who attend the setting and participate in the various work stations. A handful of commenters even mentioned that skills learned and developed through that setting have aided the member in being able to obtain employment outside of the setting, in the greater community. The Department appreciates the improvements that this setting has on individuals’ quality of life and hopes that through additional community integration opportunities, individuals are able to acquire even more skills and abilities.

Roughly one quarter of commenters mentioned the value this program has to the larger community. These comments included outsiders being invited into the setting to volunteer or to participate in various activities hosted by the setting, or interacting with individuals out in the community through the work products that are developed at the setting. The Department appreciates these comments and hopes that through additional community integration and engagement opportunities, the greater community’s awareness of and involvement in this setting will be even further expanded.

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Waiver participants and their families often rely on providers for their understanding of what is happening at a setting and why. In light of the volume of comments received, the level of concern among stakeholders, and the misconceptions identified above, staff with the Department and with the Colorado Department of Public Health & Environment (CDPHE) met remotely with this provider to ensure that it understood the requirements of the HCBS Settings Final Rule, the reason for heightened scrutiny, and the next steps expected in the heightened scrutiny process.