



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

Nonresidential Setting Summary Sheet

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| Heightened Scrutiny Identification Number | HS-053 |
| Provider Name | Ariel Clinical Services |
| Setting Name | Ariel Lawn and Yard Crew |
| Setting Address | Street address withheld, Grand Junction, CO |
| Compliant as of Date | March 14, 2023 |
| Date of This Evaluation | March 22, 2023 <i>for public comment; updated May 31, 2023 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 group supported employment in Grand Junction. It was identified for heightened scrutiny because of its original potential to isolate HCBS participants from others. The tasks include routine lawn and garden care, as well as specialty yard clean-up projects. During certain months, the crew partners with a candy company to do seasonal work packaging products. The crew is no longer isolating, as it includes a mix of disabled and non-disabled workers. State staff completed a verification site visit on March 14, 2023. Personnel



files for both disabled and non-disabled workers were reviewed. These revealed that all members of the crew had equitable documents and similar hiring practices. Client files were also reviewed, and state staff determined that rights modifications were appropriately documented. The provider explained about its efforts to reduce or eliminate rights modifications and stated it was aware this is the goal for any rights modification. State staff observed the work crew on-site. All crew members wore similar attire. No one wore a badge or clothing to distinguish one role from another. All crew members were observed to work equally on the same tasks.



Compliance Summary

| Compliant? | Federal Requirement | Summary of Evidence of Compliance |
|--|--|---|
| <input checked="" type="checkbox"/> Yes <input 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.</p> <p>42 C.F.R. § 441.304(c)(4)(i).</p> | <p>Historically, services were isolated, with minimal contact with others who are not disabled and not staff. While there is still minimal interaction with customers or the public, the agency hired a non-disabled person to work on the crew. The non-disabled crew member works every day the crew is open, with one to three HCBS participants also working on any given day. All crew members are supervised by the same crew leader and follow the same set of employment rules.</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.</p> <p><i>Id.</i> § 441.301(c)(4)(ii).</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> |



| Compliant? | Federal Requirement | Summary of Evidence of Compliance |
|---|--|--|
| <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>Id.</i> § 441.301(c)(4)(iii).</p> | <p>Individuals' rights of privacy, dignity, respect, and freedom from coercion and restraint are protected. The provider created plain-language handouts to ensure that individuals understand how to file a complaint or dispute if needed. External contacts have been added to each procedure, ensuring individuals can request assistance if needed.</p> |
| <input checked="" type="checkbox"/> Yes <input 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>Id.</i> § 441.301(c)(4)(iv)</p> | <p>One individual had appropriately documented rights modifications in this area. Staff explained their efforts to reduce or eliminate rights modifications, noting that the agency is aware that this is the goal for any rights modification. All other individuals were independent in this area.</p> |
| <input checked="" type="checkbox"/> Yes <input type="checkbox"/> Partial <input type="checkbox"/> No | <p>The setting facilitates individual choice regarding services and supports, and who provides them. <i>Id.</i> § 441.301(c)(4)(v).</p> | <p>The provider facilitates individual choice regarding services and supports and who provides them. The choice of setting is documented in individual person-centered plans.</p> |
| <input type="checkbox"/> Yes <input type="checkbox"/> Partial <input type="checkbox"/> No <input checked="" type="checkbox"/> Not Applicable | <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. <i>Id.</i> § 441.301(c)(4)(vi)(A).</p> | <p>This is a nonresidential site, so this requirement does not apply.</p> |



| Compliant? | Federal Requirement | Summary of Evidence of Compliance |
|---|--|---|
| <input type="checkbox"/> Yes <input type="checkbox"/> Partial <input type="checkbox"/> No <input checked="" type="checkbox"/> Not Applicable | <p>Each individual has privacy in their sleeping or living unit:</p> <p>(1) Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.</p> <p>(2) Individuals sharing units have a choice of roommates in that setting.</p> <p>(3) Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.</p> <p><i>Id.</i> § 441.301(c)(4)(vi)(B).</p> | <p>This is a nonresidential site, so this requirement does not apply.</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.</p> <p><i>Id.</i> § 441.301(c)(4)(vi)(C).</p> | <p>Individuals in this setting are allowed to choose their work schedules and access their 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.</p> <p><i>Id.</i> § 441.301(c)(4)(vi)(D).</p> | <p>The provider attested that individuals are able to have visitors at any time, as would be applicable in any employment setting.</p> |
| <input checked="" type="checkbox"/> Yes <input type="checkbox"/> Partial <input type="checkbox"/> No | <p>The setting is physically accessible to the individual.</p> <p><i>Id.</i> § 441.301(c)(4)(vi)(E).</p> | <p>The nature of this landscaping work requires certain physical abilities consistent with any other competitive landscaping job. The requirements are consistent across disabled and non-disabled workers.</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:</p> <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>The provider appropriately updated its policy for rights modifications, as well as its handout for individuals and guardians regarding rights.</p> |



| Compliant? | Federal Requirement | Summary of Evidence of Compliance |
|-------------------|---|--|
| | <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> | |



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 Modifications Policy
- Grievance/Complaint and Dispute Handouts
- Resource Page for Assistance
- Medication Policy
- Mistreatment Policy
- Physical Intervention Policy
- Incident Reporting Policy
- Recent Month Calendar of Community Work
- Crew Program Profile
- Materials Relating to Staff Training on Person-Centered Thinking
- Pictorial Rights of Persons Receiving Services

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

Summary of individual interviews: The individual interviewed during the on-site state verification visit reported high satisfaction with his job and crewmates. He expressed that he had the ability to choose how many days a week he worked and could make adjustments to his schedule as needed. He indicated a good relationship with his crewmates and supervisor and felt respected as a hardworking employee. The individual did not indicate any concerns or want to make any changes to his services.

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

All remediation steps have been completed.

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.

Additional Comments

No public comments were received regarding this setting.