



COLORADO

Department of Health Care
Policy & Financing

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

Nonresidential Setting Summary Sheet

Heightened Scrutiny Identification Number	HS-054
Provider Name	Easter Seals Colorado
Setting Name	Adult Day Program—Neurological Rehabilitation
Setting Address	5755 W. Alameda Ave., Lakewood, CO 80226
Compliant as of Date	March 2, 2023
Date of This Evaluation	March 20, 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 is a facility for nearly 40 individuals with neurological disorders receiving Adult Day Services. Because all services were provided solely at the base site, with no intention of supporting individuals to go out into the community, the setting was identified as potentially isolating and subject to heightened scrutiny. During a state staff site visit on March 31, 2022, individuals were observed sitting at tables with no activities. The schedule was the same every day and consisted solely of in-house activities. On occasion, there were opportunities for reverse community integration when a music therapist would come in for an hour. During this visit, the provider indicated that it believed it had a waiver that released it from the obligation to support community integration. Such a waiver was in fact not documented or available. The provider submitted an activity calendar for August 2022, which included mostly in-house activities, with some site-based reverse integration. The provider has since made progress toward community integration, as demonstrated by a revised August calendar and an activity calendar for

September 2022. A verification visit was completed in September 2022. The setting had increased community options somewhat, but it did not support opportunities to interact with community members not receiving services. An additional verification visit was completed in February 2023. The setting's offerings now included more community options that allowed participants the opportunity to interact with the general public.

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. 42 C.F.R. § 441.304(c)(4)(i).</p>	<p>The calendar available from the provider during the state staff site visit on March 31, 2022 did not include individuals having the opportunity to receive services integrated with members of the community. The director stated that all services occurred at the base site. The setting submitted a new calendar for August 2022 which reflected limited opportunities for all 36 individuals to access the community and interact with non-disabled, non-staff persons. Community integrated activities listed for the month of August 2022 included two trips to a recreation center, two trips to Starbucks, and one trip to the Food Bank of the Rockies. All other activities offered were opportunities for reverse integration or activities with the staff at the base site. The provider submitted a calendar for September 2022 which included more community integration opportunities for all participants. Ultimately, a final verification visit by state staff was completed on February 28, 2023. The setting's staff and individuals receiving services were observed going to a coffee shop and interacting with the community. Review of the community activity calendar demonstrated additional community integrated activities being offered. Review of Easter Seals' community log included documentation of each individual's activity choice and whether they participated.</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. <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; • ensuring that setting options are identified and documented in the person-centered support plan and are based on the individual's needs and preferences; 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</p>

Compliant?	Federal Requirement	Summary of Evidence of Compliance
		<p>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. Individuals work with their case managers to decide who provides their services and supports.</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>Id.</i> § 441.301(c)(4)(iii).</p>	<p>Yes, individuals' rights of privacy, dignity, respect, and freedom from coercion and restraint are protected.</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>During the site visit on March 31, 2022, the calendar had a set time each day for a specific activity. The schedule was the same every day, with arrival at 9:00 a.m., morning stretches at 10:00 a.m., activity/exercise at 11:00 a.m., lunch at 12:00 p.m., and a game or craft at 1:00 p.m. The provider submitted August 2022 and September 2022 calendars that did not enforce a specific time schedule. A verification visit on February 28, 2023 revealed the provider no longer used a regimented schedule. The new schedule allows for individuals to sign up for activities and make changes to their schedule.</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>Individuals choose who provides their services and supports.</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. § 441.301(c)(4)(vi)(B).</i></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. § 441.301(c)(4)(vi)(C).</i></p>	<p>Individuals at this setting have the freedom to control their schedule and activities and can eat 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. § 441.301(c)(4)(vi)(D).</i></p>	<p>Individuals may have any visitors at this site whenever they wish.</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. § 441.301(c)(4)(vi)(E).</i></p>	<p>Yes, the site 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:</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>The provider has appropriate policies in place for a rights modification and understands how to implement the process.</p>

Compliant?	Federal Requirement	Summary of Evidence of Compliance
	(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>Id.</i> § 441.301(c)(4)(vi)(F).	

Summary of Findings from Desk Review and/or Site Visit(s)
<p>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:</p> <ul style="list-style-type: none"> ● Rights of Persons Handout ● Grievance/Complaint Policy ● Medication Policy ● Mistreatment Policy ● Physical Intervention Policy ● Incident Reporting Policy ● March 2023 Calendar of Activities ● De-escalating Aggressive Behavior <p>If the provider updated any of these materials, findings in this evaluation reflect the most recent version of each item.</p> <p>Summary of individual interviews: An interview with one individual revealed that he enjoyed attending the program and liked the options for going out into the community. He had attended activities including shopping, visiting a coffee shop, and going to the recreation center pool. He also attended a support group at Easter Seals that was offered at the facility in the community. This individual stated he felt that his mobility had improved as he received support with physical therapy while there. He was able to come and go as he liked and access snacks at any time.</p>

Summary of Stakeholder and Public Input; Department Responses
<p>The Individual/Family/Advocate (IFA) Survey results were reviewed, and no comments were submitted for this setting.</p>

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

State staff have verified that the provider has completed remediation for this setting.

Additional Comments

<i>No public comments were received regarding this setting.</i>
