

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S2-14-26
Baltimore, Maryland 21244-1850



Disabled & Elderly Health Programs Group

March 9, 2023

Robert Kerr
Director, South Carolina Department of Health & Human Services
1801 Main Street, PO Box 8206
Columbia, SC 29201 -8206

Dear Director Kerr:

This letter and attached report are in reference to a site visit conducted by the Centers for Medicare & Medicaid Services (CMS) from January 23 - 26, 2023. CMS visited several settings in South Carolina that were identified by the state and/or stakeholders as having the qualities of an institution as outlined at 42 CFR § 441.301(c)(5) and required a CMS-conducted heightened scrutiny review to determine if they comply with the home and community-based services (HCBS) settings criteria at 42 CFR § 441.301(c)(4).

CMS appreciates the efforts of the state to prepare for our visit to South Carolina. We are asking the state to apply remediation strategies addressing the feedback contained in our report to the specific setting(s) as identified. We note that the HCBS settings criteria identified in the report that are followed by an asterisk require the state to go beyond ensuring that the individual setting has completed the necessary actions identified; specifically, complying with person-centered planning requirements requires further direction to and collaboration with the entities responsible for developing and monitoring the person-centered plans and with the HCBS provider community that is responsible for implementing services and achieving the objectives outlined in the plan. In addition, CMS notes that the state's remediation strategies must be applied to all remaining similarly situated settings you have identified as being presumptively institutional that were not included in CMS' site visit to ensure compliance with the settings criteria at 42 CFR § 441.301(c)(4) by March 17, 2023. Finally, the state should ensure issues identified in this report are addressed in the state's overall assessment process of all providers of HCBS in South Carolina, to ensure that all providers are being assessed appropriately against the regulatory settings criteria and will implement the necessary remediation to achieve timely compliance.

As described more fully in the attached report, CMS notes below several areas where issues were found to exist across several locations, which raise systemic concerns that must be

addressed by the state. Specifically, the following regulatory criteria located at 42 CFR 441.301(c)(4) were not found to be in practice:

- 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.
- The setting ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.
- 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.
- The unit or dwelling is a specific physical place that be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a 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 in which landlord tenant laws do not apply, the state must ensure that a lease, residency agreement or other form or written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.
- Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.
- Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time.
- Any modification of the additional conditions, under §441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan.*
- Description of how staff are trained and monitored on their understanding of the settings criteria and the role of person-centered planning, consistent with state standards as described in the waiver or in community training policies and procedures established by the state.

South Carolina's Statewide Transition Plan (STP), approved on February 4, 2020, describes strategies to ensure that all providers of Medicaid HCBS have been assessed to meet the regulatory criteria and any needed remediation has been identified. The state's practice for addressing the observations described in the attached report must align with the processes described in the STP.

CMS requests that the state provide a written response providing updated information describing how the state will remediate both the process for developing and implementing the person-centered service plan and the individual settings to ensure compliance with all of the settings criteria. CMS also requests a written response on how the state will apply this feedback to the ongoing monitoring of person-centered planning functions and settings in the HCBS

delivery system as noted above. CMS requests this information be submitted no later than April 9, 2023.

Upon review of this feedback, please contact Michele MacKenzie at (410) 786-5929 or michele.mackenzie@cms.hhs.gov if you would like to schedule a follow-up conference call with the CMS team to discuss next steps or request technical assistance.

Thank you for your continued commitment to the state of South Carolina's successful delivery of Medicaid-funded HCBS.

Sincerely,

Melissa L. Harris, Deputy Director
Disabled & Elderly Health Programs Group

Enclosure

Heightened Scrutiny Site Visit – South Carolina
Summary Review by Setting
Visit Dates: January 23-26, 2023

South Carolina Site Visit Team:

CMS Representative: Ondrea Richardson

ACL Representative: Jill Jacobs

New Editions: Amy Coey, Vicky Wheeler

Introduction:

The Site Visit Team visited eight settings in South Carolina, including three Community Residential Care Facilities (CRCF), Vanguard I, Camp, and Farmington; two Community Training Home (CTH) II settings, Code and Independence Place AI; two Day Services/Work Activity Centers, Tribble Center and Piedmont Skills- Fountain Inn Adult Activity Center; and one Supervised Living Program (SLP) II, Fountain Inn. All eight settings were identified by the state as presumptively institutional and submitted to the Centers for Medicare & Medicaid Services (CMS) for a heightened scrutiny review. With the exception of Camp and Farmington, the state received feedback from CMS on each setting prior to the site visit.

Promising Practices :

The Site Visit Team saw some very significant changes tied to the settings rule in South Carolina, and were impressed with the template used for the person-centered service plans (PCSPs). However, there were varying degrees of how case managers and providers completed these templates. In order to use the new templates consistently and most effectively, the state should consider applying the best practices noted in certain areas of the state universally across the state. The team also noted many of the individuals in the settings had personal friendships and romantic relationships; staff in several settings indicated a recognition of the importance of human relationships. Additionally, South Carolina is in the process of moving away from piece rate employment and assuring that participants are paid at least minimum wage for the work they complete in sheltered settings.

Summary of Findings:

Although a distinct review of each setting is included in this report, the table below summarizes the findings for the entirety of the visit to South Carolina and identifies systemic issues noted through the review.

Regulation Citation	Regulation Language	Setting Name
441.301(c)(4)(i)	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.	Vanguard I, Camp, Farmington, Tribble Center, Piedmont Skills
441.301(c)(4)(iii)	The setting ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.	Vanguard I, Camp, Farmington, Independence Place AI, Tribble Center
441.301(c)(4)(iv)	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.	Vanguard I, Camp, Farmington, Independence Place AI, Fountain Inn
441.301(c)(4)(vi)(A)	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 a 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 in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.	Independence Place AI, Code, Fountain Inn
441.301(c)(4)(vi)(B)(1)	Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.	Vanguard I, Camp, Farmington

Regulation Citation	Regulation Language	Setting Name
441.301(c)(4)(vi)(C)	Individuals have the freedom to control their own schedules and activities, and have access to food at any time.	Vanguard I, Camp, Code
441.301(c)(4)(vi)(F)	Any modification of the additional conditions, under §441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan.	Camp, Code

Additional Provision	Language	Setting Name
State Medicaid Director Letter #19-001 ¹	Description of how staff are trained and monitored on their understanding of the settings criteria and the role of person-centered planning, consistent with state standards as described in the waiver or in community training policies and procedures established by the state.	Vanguard I, Camp, Farmington

Vanguard I

Facility Description:

The setting is a Community Residential Care Facility (CRCF) that was formerly an ICF/IID and is physically located next to another CRCF that was also formerly an ICF/IID. It is a single-story home with eight male residents. Each resident has a private bedroom. There are two bathrooms which are shared between the residents. Personal care is provided as part of the setting's licensing requirements. Upon entering the home, there is a very large family room, with couches, chairs, tv, and fireplace. The family room opens to a dining room. The kitchen is separate, small, and is located directly off the living and dining room areas. There is a large fenced in backyard with a covered patio with patio furniture. The house was completely remodeled inside with new floors, new paint, and new furniture. There is a small room off the dining room where there's a piano/keyboard. One resident noted he likes to play piano and does so every day after day program.

Site Visit Review Description:

The site visit team reviewed PCSPs for the residents of Vanguard I while onsite at Independence Place. Both settings are operated by the same provider agency. Residents were not home when the site visit team arrived; they were at a day program. The team conducted interviews with direct support staff and toured the setting, with the exception of resident bedrooms. The team sat at the dining room table with staff and discussed

¹ [Heightened Scrutiny SMD-SMDL Final \(medicaid.gov\); see question 10](#)

the availability of locks on bedroom doors and the front door of the house. Although staff noted that residents have keys to the home, they also noted there is one key, which is a master key for the front door and bedroom doors. The master key is available in the staff office area. Staff indicated that none of the residents were aware that the key is a master key and can open all doors in the home. After several clarifying questions from the site visit team to the administrative staff, it was unclear whether individuals have their own keys and which staff also have access to the keys to bedrooms. It was also noted that the bathrooms had two sections, the vanity area and the shower area with a lock on the door to the shower entrance which does not allow for privacy for residents when they come out of the shower. This was mentioned to staff. The team left the setting for a lunch break and returned to the home in the afternoon when the residents arrived home from the day program. We were notified that the locks had been switched so that the main bathroom door locks and allows for full privacy in the bathroom. Some residents volunteered to show the site visit team members their bedroom.

Findings of Site Visit:

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
441.301(c)(4)(i)	<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>It was noted that residents went daily to the day services setting, but no community activities were noted by staff, the residents, or in the PCSPs. Residents interviewed indicated that they are unable to go to places they choose including community activities and visiting family members.</p> <p>Vanguard I must ensure their model of service delivery aligns with the regulatory criteria to support participants' full access to the greater community. Establishing partnerships with community resources and leveraging existing community transportation options should be explored. Vanguard I should develop policies, practices and resources to ensure that individuals have full access to the greater community.</p> <p>Additionally, the setting should ensure that individuals are informed of their choices for competitive, integrated employment, and the ability to control their finances and choose a community financial institution. This provision also includes the application for and use of other benefit programs such as SNAP.</p>

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
441.301(c)(4)(iii)	The setting ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.	<p>During the visit to the setting, the site visit team attempted to interview residents regarding their experience in the setting. Staff would not leave the area where the residents and site visit team were having a conversation even if the residents chose to invite the site visit team into their rooms to talk. Through additional onsite observations, the site visit team had concerns regarding staff not treating individuals with dignity and respect and ensuring individual' health and welfare in the setting. Additionally, an one resident expressed concerns about the individuals who were unable to advocate for themselves living in the setting without an advocate.</p> <p>Vanguard I must ensure their model of service delivery aligns with the regulatory criteria to support participants' right to privacy, dignity, respect and freedom from coercion and restraint.</p> <p>Vanguard I must amend practices to ensure individuals' rights to privacy, dignity and respect are recognized. During the site visits, residents were not allowed to speak with CMS alone and staff monitored the conversations.</p>

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
441.301(c)(4)(iv)	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.	<p>It was noted that residents were not permitted to leave the setting alone. As indicated above, no community activities were noted by staff, the residents, or in the PCSPs.</p> <p>Vanguard I must ensure their model of service delivery aligns with the regulatory criteria to support participants' autonomy in making choices about daily activities. This includes ensuring that schedules are not regimented, that individuals have the opportunity to set their own schedules and participate in activities of their choosing.</p>
441.301(c)(4)(vi)(B)(1)	Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.	<p>Staff reported that individuals have keys to their rooms and the house. However, during the site visit there were individuals who had to ask staff to unlock their door. Staff noted residents do not have keys to their doors and an administrative staff interjected that she was incorrect. The on-site team was notified that even when they lock their rooms, residents will come home to find that their personal items were missing. Individuals have reportedly been denied requests to have a key to the house.</p> <p>Vanguard I must ensure that units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.</p>

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
441.301(c)(4)(vi)(B)(3)	Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.	<p>It was noted the home was recently remodeled (new paint, furniture, floors, etc.) and residents stated prior to the remodel they had personal items in their rooms and on the walls. Following the remodel, their personal items had not been returned or put back up in their rooms.</p> <p>Vanguard I must ensure that individuals have the freedom to furnish and decorate their sleeping or living units.</p>
441.301(c)(4)(vi)(C)	Individuals have the freedom to control their own schedules and activities, and have access to food at any time.	<p>Although the staff reported that residents have choices of food and the ability to assist with menu development, residents noted the menu is from 2015 and has not been updated/changed. Residents also noted that in preparation for the site visit team's visit, they overheard administrative staff coaching direct support staff on what to say regarding food availability and choice of food.</p> <p>Vanguard I must revise its model of service delivery to ensure individuals have access to food at any time, unless there is a documented reason, described in an individual's person-centered service plan, for any restrictions.</p>

Additional Provision	Language	Violation Finding Based on Site Visit
State Medicaid Director Letter #19-001 ²	Description of how staff are trained and monitored on their understanding of the settings criteria and the role of person-centered planning, consistent with state standards as described in the waiver or in community training policies and procedures established by the state.	<p>Through staff interviews, it was evident staff understood the requirements of the settings rule. However, the above findings identify examples of how the settings requirements were not being implemented in the setting.</p> <p>Vanguard I should ensure all employees have consistent and reinforced training on the HCBS settings regulatory criteria.</p>

Camp and Farmington

Facility Description:

These settings are eight-bedroom, eight resident homes, located on the same lot in a residential area of Charleston. Camp has eight male residents and Farmington has eight residents: seven female and one male. Although the settings are currently licensed as CRCFs, the homes used to be ICF/IID settings. The homes are large with an open living area directly off the front entrance. Both homes have an outside patio area with seating. At Camp, there was a washer and dryer on the patio and when the site visit team asked the house manager if residents could do their laundry, she indicated they could not due to a licensure restriction. When asked if residents can do their own laundry at Farmington, they indicated they could. At Camp, they also had a medication room where the house manager said the residents were “very compliant” to go there to get their medication. Farmington was run slightly different than the Camp setting.

Site Visit Review Description:

Each house provided the PCSPs for review. At Camp, the team was provided a tour of the setting by the house manager who indicated that this was her house and described herself as “big momma” to the male residents. She also stated that the residents liked to be mothered and that they were a family and it was her job to make sure the residents ate well. Additionally, she noted the residents were not permitted to be in the kitchen as this was a licensure restriction. Records indicated that nobody is allowed to eat anything at Camp anywhere but the dining room table. Additionally, no resident is allowed to eat food, even snacks, unless a staff person is with them. There were no residents home during the time of the site visit. Residents at both homes were attending the day program. During the tour of Camp by the house manager, she offered to open resident’s bedrooms so the site visit team could look inside. The site visit team noted they would not enter someone’s private space without being invited by the resident. Administrative staff did note that Camp is operated by a house manager who applies different rules than those applied at Farmington. It was noted that Farmington appeared to be less restrictive than Camp, allowing individuals to enter the kitchen area to assist with cooking, have choice of where they wanted to have their meals and what meals they could have.

² [Heightened Scrutiny SMD-SMDL Final \(medicaid.gov\); see question 10](#)

Findings of Site Visit:

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
441.301(c)(4)(i)	<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>Residents attend a day setting during the day and return to the residence in the afternoon. There was no indication through staff interviews or PCSPs that inclusion in the greater community was an opportunity for any of the residents. Additionally, there was no indication that competitive integrated employment was an option for any resident. It was noted in PCSPs that residents wrote personal checks to staff to purchase clothing and that individuals did not have the ability to decide what they spent their money on.</p> <p>Camp and Farmington must ensure their model of service delivery aligns with the regulatory criteria to support participants' full access to the greater community. Establishing partnerships with community resources and leveraging existing community transportation options should be explored.</p> <p>Camp and Farmington should develop policies, practices and resources to ensure that individuals have full access to the greater community.</p> <p>Additionally, the settings should ensure that individuals are informed of their choices for competitive, integrated employment, and the ability to control their finances.</p>

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
441.301(c)(4)(iii)	The setting ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.	<p>The setting has a room for medication administration; it looks similar to a nurse’s station. Staff indicated that residents are not permitted to take their medication in other areas of the home, but are “compliant” in coming to the medication room to have medications administered.</p> <p>Camp and Farmington must modify their model of service delivery to protect the privacy of residents’ health information.</p>

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
441.301(c)(4)(iv)	<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.</p>	<p>The lead staff person indicated that each part of the day is regimented, including mealtimes, where meals are served, where residents sit to eat, when they can have their laundry done by staff, where they can be in the house (referencing an assumed rule unknown to the settings team that indicates residents are not permitted to be in the kitchen at any time due to the Department of Health and Environment Control rules), bed times and wake up times, and daily activities such as bathing. The residency agreement indicates residents have access to all common areas of the home; however, this contradicts what staff reported during the interview regarding kitchen access.</p> <p>Camp and Farmington must ensure their model of service delivery aligns with the regulatory criteria to facilitate independence and community integration, and amend practices to ensure that schedules are not regimented and that individuals have the opportunity to set their own schedules and participate in activities of their choosing.</p> <p>Camp and Farmington should revise their current practice to permit individuals to choose where to eat and with whom.</p>

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
441.301(c)(4)(vi)(B)(1)	Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.	<p>During the tour of the setting, staff had a key to each resident's room; however, since the residents were not present during the site visit, it was not determined if they had keys to their own rooms.</p> <p>At Farmington, some of the bedroom doors were closed and it was unknown if they were locked. Some of the doors were slightly ajar. The administrator indicated the residents do not want to hold their keys to their bedrooms because they are afraid they will lose them. All the keys were in the lock box in the medication room and the box is never locked, but there was a key on that lock box and it was unclear who has access or how residents get access to their keys when needed.</p> <p>Camp and Farmington must ensure that units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.</p>
441.301(c)(4)(vi)(C)	Individuals have the freedom to control their own schedules and activities, and have access to food at any time.	<p>The PCSPs at Camp indicate that residents are not permitted to eat unless seated at the table with a staff member and are not permitted to eat in their rooms unless they are ill.</p> <p>Camp should revise their current practice to ensure that residents have options in meal choices and flexibility in mealtimes, including the choice in where to eat and with whom they would like to eat. Any restrictions on access to food or requirements to eat in the presence of staff should be based on an individual assessed need, and documented in the individual's PCSP.</p>

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
441.301(c)(4)(vi)(F)	Any modification of the additional conditions, under §441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan.	<p>Based on staff interviews, modifications to the additional conditions of the setting rule (i.e., access to food, locks on doors) are in place for residents; however, the modifications are not addressed in the PCSP.</p> <p>The state Medicaid Agency, and the entity that ensures the development of the person-centered service plan should ensure that person-centered service plans that comply with all regulatory requirements are in place for each individual receiving Medicaid-funded HCBS. The entity responsible for the person-centered service plan should ensure that all modifications for a specific individual are incorporated into the plan and Camp and Farmington must adhere to the plan.</p>

Additional Provision	Language	Violation Finding Based on Site Visit
State Medicaid Director Letter #19-001 ³	Description of how staff are trained and monitored on their understanding of the settings criteria and the role of person-centered planning, consistent with state standards as described in the waiver or in community training policies and procedures established by the state.	<p>During staff interviews, it was unclear if staff were trained on the HCBS settings rule. There was no evidence, through discussions with staff, that they were aware of any of the rule criteria.</p> <p>Camp and Farmington should ensure all employees have consistent and reinforced training on the HCBS settings regulatory criteria.</p>

Independence Place A1

Facility Description:

The setting is a single-story apartment complex comprising two buildings. Building B has four individual apartments in the building that are licensed as one CTH II. There is also a community building which has a kitchen, staff office, and a multi-purpose area where residents can

³ [Heightened Scrutiny SMD-SMDL Final \(medicaid.gov\); see question 10](#)

congregate to eat and interact with each other if they choose to. Across from Building B is another CTH II that is structured similarly. It has two CTH II settings, each one comprised of four individual apartments. In each CTH II live four residents, each in their own apartment. The setting is located next to another apartment complex and is 0.5 miles from a retail and restaurant area.

Site Visit Review Description:

The site visit team arrived at the setting and convened in the multipurpose room to review PCSPs. Direct support staff were also available at this time for interviews. Later in the afternoon, when residents had returned home from a day program, they were interviewed. Residents also provided a tour of their apartments. Each apartment had a living room, bedroom, and bathroom that was decorated by the resident. Although staff indicated visitors were welcome at any time, residents noted they had to ask permission a couple of days prior to an expected visit. Meals are served in the multipurpose room; however residents could bring them back to their apartment if they wished. Menus are developed based on resident input and other options are provided if the resident would like something other than what is being served. Residents can shop for snacks and keep those in their apartment. The team reviewed a sample template lease and noted that the template includes the setting criteria.

Findings of Site Visit:

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
441.301(c)(4)(iii)	The setting ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.	<p>In some of the PCSPs, it was noted that some individuals had visual checks hourly and a phone call every hour if they were out past “accountability.” There was nothing in the PCSPs that indicated the person had agreed to this.</p> <p>Independence Place A1 must ensure their model of service delivery aligns with the regulatory criteria to support participants’ right to privacy, dignity, respect and freedom from coercion and restraint.</p>

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
441.301(c)(4)(iv)	<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.</p>	<p>Each individual had a locked cabinet for their medications within their apartment. The individual did not have access to the medication cabinet or key for the cabinet.</p> <p>Independence Place A1 must ensure their model of service delivery aligns with the regulatory criteria to support participants' autonomy in making choices about daily activities. Any restrictions on an individual's ability to directly access their medications should be based on an individual assessed need and documented in the PCSP.</p>
441.301(c)(4)(vi)(A)	<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 a 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 in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.</p>	<p>The setting's lease did not address the appeal process. However, the state indicated there is an appeals process in place that should be followed.</p> <p>Independence Place A1 must ensure that a lease, residency or other written agreement is in place for each individual and that the agreement provides protections from evictions and appeals processes that are comparable to those in the jurisdiction's landlord tenant laws.</p>

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
441.301(c)(4)(vi)(D)	Individuals are able to have visitors of their choosing at any time.	<p>Although the lease and staff who were interviewed noted that individuals can have visitors of their choice at any time, including overnight guests, individuals interviewed noted they had to give 2 days' notice to staff in order to have an overnight guest.</p> <p>Independence Place A1 must ensure their model of service delivery aligns with the regulatory criteria that participants are able to have visitors of their choosing at any time.</p>

**Tribble Center
Facility Description:**

The Tribble Center is a Day Services/Work Activity Center located in Seneca, South Carolina. The setting is in a rural, residential area with shopping and restaurants within approximately one mile. The Tribble Center provides both vocational and habilitative day services, with three areas or groups, located in two buildings, for individuals participating in habilitation and a separate building for those individuals participating in vocational programs. The vocational program is sub-contracted work, mostly paid at piece rate; some jobs do pay at least minimum wage. The provider re-negotiated their contract with a longtime partner to get to the point of people being paid fairly. The workers on site are paid minimum wage. The workers who were offsite at the electrical facility are paid \$16+ per hour. The setting staff indicated that South Carolina is phasing out piece rate work and all individuals will eventually be compensated at least minimum wage. Staff could not provide a specific timeline for when this state law would be passed, but noted there is a 3-year process, and sub-minimum wage work must end within 3 years from when the law was passed.

There are about 100-120 individuals who use this setting per day and 98 of those individuals live in HCBS settings as well.

Site Visit Review Description:

The site visit team arrived at the setting and was met by state staff, as well as the setting's administrative staff. The team started the visit by reviewing PCSPs, followed by interviews with direct support professionals, a tour of the setting, and interviews with individuals who receive services at the setting. During the tour, individuals in one group were having lunch and welcomed the team, answering questions about services they receive and showing the team activities they were participating in. Two of the habilitative groups were in the same building, in adjoining rooms. One room was used to provide services to individuals who were ambulatory and verbal. In the adjoining room, participants received hands-on care for feeding and toileting; most of the individuals in this group were primarily non-verbal. There's an additional habilitation group located in a building adjoined by an outdoor breezeway. This group is smaller and designed to support individuals who require closer supervision

and physical assistance. The vocational program was in a separate building. Housed in this building was the workshop, administrative offices, a gymnasium that also functioned as a lunch dining area for participants, and a kitchen. It was noted by staff that kitchen staff cooked lunch for all programs on the campus, delivering the meals to the habilitative groups located in other buildings. The menu is posted and developed by the kitchen staff. Individuals have the option to purchase lunch, pack a lunch from home, or order food and have it delivered. Individuals who attend the habilitation groups occasionally go out to eat for lunch as a group. Locks were noted on bathroom doors for privacy. The setting appeared to be accessible to all persons and the staff remarked that if modifications due to accessibility needed to be made for a person, the provider would assure those are completed. Staff noted that visitors are welcome to the setting at any time, but would need to sign in at the administrative office.

Findings of Site Visit:

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
441.301(c)(4)(i)	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>Staff noted individuals participate in activities primarily at the setting. These activities are developed by staff based on individuals’ interests. It was noted that individuals were engaged in activities that were not age appropriate, such as coloring and playing with baby dolls. Activities outside of the setting are done as a group rather than individually. PCSPs do not reflect personal interests in activities, whether setting based or community based. There was no evidence, through the review of PCSPs, or in interviews with staff and individuals, that competitive, integrated work was made an opportunity for those who received services at the setting.</p> <p>Tribble Center must ensure their model of service delivery aligns with the regulatory criteria to support participants’ full access to the greater community. Establishing partnerships with community resources and leveraging existing community transportation options should be explored. Tribble Center should develop policies, practices and resources to ensure that individuals have full access to the greater community.</p>

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
441.301(c)(4)(ii)	<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>There was no evidence in the PCSP, or through interviews with staff and individuals, that setting options including non-disability specific settings were offered to the individual. Administrative staff noted the setting was the only option available in the area.</p> <p>The state Medicaid Agency and the entity that is responsible for ensuring the development of the person-centered service plan must ensure that individuals receiving Medicaid-funded HCBS are afforded a choice of setting, in compliance with regulatory requirements, including a choice of non-disability specific settings.</p>
441.301(c)(4)(iii)	<p>The setting ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.</p>	<p>Although there were locks noted on bathroom doors, during the site visit, the team noted a person using a toilet with the door open to a hallway where staff and individuals were passing by and could see the person. The person was clearly uncomfortable and a site visit team member pulled the door closed when walking by. Additionally, the site visit team was in the setting for approximately 15 minutes and staff had not responded to assist the person in the restroom. When staff did return to assist the individual, they entered the bathroom without knocking first.</p> <p>Tribble Center must ensure their model of service delivery aligns with the regulatory criteria to support participants' right to privacy, dignity, respect and freedom from coercion and restraint. This includes facilitating privacy in the shared bedroom.</p>

Code

Facility Description:

Code is a Community Training Home II (CTH II) that is a single-story dwelling where four males reside. The home is located on a dead-end road with signage indicating the homes are owned and operated by the residential provider. The other homes on the road are also homes where people with developmental and intellectual disabilities live and receive services. Each resident has his own room, which he has decorated according to taste. There is a front porch with seating and a smoking area that one resident uses when he wants to smoke. Staff noted that he comes and goes to the porch by himself and smokes when he wants. When entering the home via the front door, there is a living room, a kitchen, and a small room connected to the living room that staff uses as office space and for medication administration. There are cameras and monitors in the office space/medication administration area. On the walls in this area there is a posted shower schedule for one individual who is in a wheelchair to ensure there is someone available for assistance, schedules for activities for each resident and a menu for meals. The pantry is located at the entrance of the kitchen and is locked. Opposite the living room is a hallway to the bedrooms. There are two bedrooms and a bathroom on each side of the hallway.

Site Visit Review Description:

The site visit team reviewed the PCSPs while visiting Tribble Center as the four residents who reside at Code also attend Tribble. Prior to the residents returning home from the day program, the site visit team interviewed the staff at Code. Once the residents returned home, interviews with residents were conducted and the site visit team was provided with a tour of the residents' home. Staff from the residence went to pick up the residents from the day program; there's a van/bus available to each house which is used to provide all transportation needs for the residents. Staff noted they have received extensive training on the HCBS settings rule. They indicated this was a required training developed and presented by the state and each staff person was required to attend. Staff cook all meals, which are developed based on resident input. Staff noted that residents can have food at any time, with the exception of one individual who is diabetic and gets up to snack in the middle of the night if the pantry is not locked. Staff noted that the other residents have a key to the pantry and can access food or snack at any time. Residents can have visitors at any time, as well as overnight guests.

Findings of Site Visit:

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
441.301(c)(4)(vi)(A)	<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 a 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 in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.</p>	<p>The residential agreement does not have appeals information and includes a clause which states that after being 5 days late with rent, residents can be evicted.</p> <p>Code must ensure that a lease, residency or other written agreement is in place for each individual and that the agreement provides protections from evictions and appeals processes that are comparable to those in the jurisdiction's landlord tenant laws.</p>
441.301(c)(4)(vi)(F)	<p>Any modification of the additional conditions, under §441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan.</p>	<p>As noted above regarding access to food, one individual in the home has restrictions related to food access. This restriction was not designated as a modification in his PCSP.</p> <p>The state Medicaid Agency, and the entity that ensures the development of the person-centered service plan should ensure that person-centered service plans that comply with all regulatory requirements are in place for each individual receiving Medicaid-funded HCBS. The entity responsible for the person-centered service plan should ensure that all modifications for a specific individual are incorporated into the plan and Code must adhere to the plan.</p>

Fountain Inn

Facility Description:

Fountain Inn is a Supervised Living Program II (SLP II) consisting of a twelve-unit, single-story apartment complex serving twelve individuals. The apartment complex is on a campus that also has as an ICF/IID and a non-residential, day services setting. The apartment complex has a building that houses the provider's office, as well as a laundry room for residents. Each apartment has an efficiency kitchen that includes a full-size refrigerator, microwave, sink, and pantry. One cupboard is used for medication storage and is locked; only staff have keys. There is a living room, and a bedroom with an attached bathroom. There are locks on the front door, as well as the bathroom door.

Site Visit Review Description:

The site visit team arrived at the setting and was provided a conference room to review the PCSPs. However, it was noted by administrative staff that residents would be leaving for the day, so the team chose to do interviews with residents prior to reviewing plans. The site visit team divided in two and each twosome interviewed a resident in their apartment. Residents noted they are free to come and go as they choose and have a key to lock/unlock their front door. Bedrooms, as well as the apartment, were decorated by the resident based on personal taste. Residents noted that staff assists with shopping and provides transportation to community activities, medical appointments, and work as needed. The residents indicated they are free to have visitors of their choosing at any time, including overnight. One resident noted he likes to stay home most days, watching tv. However, he does walk to work at a movie theatre once a week. On his way to work, he typically stops and meets a friend for lunch before walking on to work. This resident also noted his family helped select this apartment and the service provider.

Findings of Site Visit:

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
441.301(c)(4)(iv)	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.	Each individual had a locked cabinet for their medications within their apartment. The individual did not have access to the medication cabinet or key for the cabinet. Fountain Inn must ensure their model of service delivery aligns with the regulatory criteria to support participants' autonomy in making choices about daily activities. Any restrictions on an individual's ability to directly access their medications should be based on an individual assessed need and documented in the PCSP.

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
441.301(c)(4)(vi)(A)	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 a 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 in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.	<p>The lease agreement noted that the landlord can terminate the lease if rent is over 5 days late and can also terminate the lease in 30 days for no reason. The lease also stated the landlord agrees to “access to food as programmatically determined and in keeping with agreed upon plans for health and medical care.”</p> <p>Fountain Inn must ensure that a lease, residency or other written agreement is in place for each individual and that the agreement provides protections from evictions and appeals processes that are comparable to those in the jurisdiction’s landlord tenant laws.</p>

Piedmont Skills- Fountain Inn Adult Activity Center

Facility Description:

Piedmont Skills is a non-residential day setting that is located on a campus with an ICF/IID and SLP II settings. The activity center provides waiver services that include career preparation, community services, employment services, and day activity. Services are provided in an open area where tables/chairs are arranged in groups. Each group has a staff person who assists the participants with engaging in activities. There is a large open space towards the back of the area that is set up for group games and activities. The area has male/female restrooms and an entrance/exit that participants use to come and go daily and for outings.

Site Visit Review Description:

The team arrived at the setting and planned to start by reviewing PCSPs; however, the participants were planning to leave for scheduled activities, so the team met with the participants first and toured the area where services were being provided prior to returning to the conference room to review PCSPs. The team was greeted by happy participants who had been looking forward to the site visit team’s arrival. The team conducted interviews with both participants and direct support staff. It was noted that participants like to be part of community activities, such as going out to shop, to eat, to bowl, and to local parks as part of their typical day. Participants also work on activities within their groups at the day setting

when not going out for the day. Activities, both at the day setting and outside of the day setting, are based on participant interest. Participants can choose to be part of activities or abstain depending on personal interest.

Findings of Site Visit:

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
441.301(c)(4)(i)	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>Activities provided at the setting are not always age appropriate or based on personal interest. It was noted that individuals were coloring and also working on writing letters. Staff noted these are daily activities and individuals all choose to do these activities. Activities in the community are done in groups and based on participant and staff interests. PCSPs did not note any opportunity for competitive integrated employment.</p> <p>Piedmont Skills- Fountain Inn Adult Activity Center must ensure their model of service delivery aligns with the regulatory criteria to support participants’ full access to the greater community. Establishing partnerships with community resources and leveraging existing community transportation options should be explored. Additionally, the setting should ensure that individuals are informed of their choices for competitive, integrated employment.</p>