

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**

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December 22, 2022

Stephanie Azar  
Medicaid Director  
Alabama Medicaid Agency  
P.O. Box 5624  
Montgomery, AL 36103-5624

Dear Director Azar:

This letter and attached report are in reference to a site visit conducted by the Centers for Medicare & Medicaid Services (CMS) from August 22 - 24, 2022. CMS visited several settings in Alabama 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 Alabama. 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 service 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 Alabama, 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 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.\*
- 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.
- Facilitates individual choice regarding services and supports and who provides them.
- 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.
- Individuals are able to have visitors of their choosing 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.\*

CMS is awaiting the submission of Alabama's Statewide Transition Plan (STP), describing 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 when the STP is approved by CMS.

Page Three – Azar

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 January 24, 2023.

Upon review of this feedback, please contact Michele MacKenzie at (410) 786-5929 or [Michele.Mackenzie@cms.hhs.gov](mailto: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 Alabama's successful delivery of Medicaid-funded HCBS.

Sincerely,

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

Enclosure

**Heightened Scrutiny Site Visit - Alabama**  
**Summary Review by Setting**  
**Visit Dates: August 22-24, 2022**

**Alabama Site Visit Team:**

CMS Representative: Michele MacKenzie  
 New Editions: Amy Coey and Kelly Eifert  
 ACL: Nancy Thaler  
 Alabama: Terry Pezent and Ginger Wettingfield

**Introduction:**

The Site Visit Team visited eight settings in Alabama. Five of the settings were various sized group homes, one was an apartment, one was a host-home setting, and the final setting was a campus with residential group homes and a day program on site. The settings are located in the central and central-eastern regions of Alabama. The settings visited included Lakeshore Ridge, a residential apartment operated by Volunteers of America (VOA); Martinwood, a group home operated by Progressive Healthcare Providers of Alabama; Wilson Home, a host home operated by VOA; Spring Villa Group Home, operated by East Alabama Mental Health (EAMH); Georgia Valeria Group Home, operated by EAMH; Opelika Retirement Home, a group home operated by EAMH; Northside Duplex, two group homes operated by EAMH; and Rainbow Omega, a campus with group homes, an employment center and a day program. As noted in the table below, systemic issues were identified during the CMS site visits regarding several regulatory criteria.

<b>Rule Citation</b>	<b>Rule Language</b>	<b>Setting Name</b>
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.	Spring Villa Group Home- EAMH, Georgia Valeria Group Home- EAMH, Opelika Retirement Home EAMH-, Northside Duplex- EAMH, Rainbow Omega, Martinwood- PHP of Alabama, Lakeshore Ridge- VOA, Wilson Home- VOA
441.301(c)(4)(ii)	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	Spring Villa Group Home- EAMH, Georgia Valeria Group Home- EAMH, Opelika Retirement Home- EAMH, Northside

Rule Citation	Rule Language	Setting Name
	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.	Duplex- EAMH, Martinwood- PHP of Alabama
441.301(c)(4)(iii)	Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.	Spring Villa Group Home- EAMH, Georgia Valeria Group Home- EAMH, Opelika Retirement Home- EAMH, Northside Duplex- EAMH, Rainbow Omega, Martinwood- PHP of Alabama
441.301(c)(4)(iv)	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.	Spring Villa Group Home- EAMH, Georgia Valeria Group Home- EAMH, Opelika Retirement Home- EAMH, Northside Duplex- EAMH, Rainbow Omega
441.301(c)(4)(v)	Facilitates individual choice regarding services and supports and who provides them.	Spring Villa Group Home- EAMH, Georgia Valeria Group Home- EAMH, Opelika Retirement Home- EAMH, Northside Duplex- EAMH, Rainbow Omega
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.	Spring Villa Group Home- EAMH, Georgia Valeria Group Home- EAMH, Opelika Retirement Home- EAMH, Northside Duplex- EAMH, Rainbow Omega, Lakeshore Ridge- VOA, Wilson Home- VOA
441.301(c)(4)(vi)(B)(1)	Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.	Spring Villa Group Home- EAMH, Opelika Retirement Home- EAMH

Rule Citation	Rule Language	Setting Name
42 CFR 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.	Spring Villa Group Home- EAMH, Georgia Valeria Group Home- EAMH, Opelika Retirement Home- EAMH, Northside Duplex- EAMH, Rainbow Omega, Martinwood Group Home- PHP of Alabama
441.301(c)(4)(vi)(D)	Individuals are able to have visitors of their choosing at any time	Spring Villa Group Home- EAMH, Georgia Valeria Group Home- EAMH, Opelika Retirement Home- EAMH, Northside Duplex- EAMH, Rainbow Omega
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.	Spring Villa Group Home- EAMH, Georgia Valeria Group Home- EAMH, Opelika Retirement Home- EAMH, Northside Duplex- EAMH, Rainbow Omega

Additional Provision	Language	Violation Finding Based on Site Visit
State Medicaid Director Letter #19-001 <sup>1</sup>	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.	Spring Villa Group Home- EAMH, Georgia Valeria Group Home- EAMH, Opelika Retirement Home- EAMH, Northside Duplex- EAMH, Rainbow Omega

### Spring Villa Group Home - Operated by East Alabama Mental Health Facility Description:

The setting is group home located on the southeast side of Opelika, approximately six miles from town. The facility is on a county highway in a rural area and is surrounded by a high chain link fence. Per the provider, the facility used to be a hunting lodge and has been converted for use as a group home. There were no visible homes or business near the residence. The facility has eleven male residents, all of whom receive HCBS. There is a porch on the front of the home, and the front door opens into a small entryway. The

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

entry way was used for storage; there was a treadmill and other assorted boxes in this area. The setting has a large living area, with some couches and a large television. At the back of the living room, in the dining area, there was a time out room. The room had a pressure lock that must be held in place to keep a person from exiting the room. The room was painted white on all surfaces (walls, ceiling, floor). The kitchen was large and opened to the dining/living area, and also contained a laundry area and large pantry. There are no areas for the eleven men to visit with guests or have a private conversation. There are three bedrooms and a staff office downstairs. One bedroom had two beds and the two other rooms were private rooms. Upstairs there is one large bedroom with five beds. Off the bedroom was a large bathroom with a bathtub on one end of the room and a toilet and single sink at the other end. The rest of the bathroom was empty; no storage was present. There was no shower head or shower curtain. Downstairs, between the kitchen and the pantry, was a door which lead to the upstairs. Staff noted it was an additional bedroom which two residents share. This bedroom was not seen by the site visit team.

#### **Site Visit Review Description:**

The site visit team was met by state staff, as well as provider administrative staff. Workers were on site as some of the home was being painted. Painting was observed in the downstairs bedrooms. The state staff did not accompany the site visit team into the home. The site visit team was shown into the home and into the living room where the television was on, loudly, and it appeared that most of the residents were there watching television or were at least sitting on the couches in the room. Staff shared that four of the residents were attending a day program which is operated by a different provider. The remaining residents were home because the day program they typically attend was temporarily closed due to staffing shortages. This day program is operated by the same provider of the residential setting. Other staff on site included the program director who oversees this facility and another setting of similar size, the compliance officer for the provider, and other direct support staff. The site visit team reviewed service plans and other documentation. The program director noted the residents were participating in a fitness program where every resident wore a step tracker to keep track of how many steps they took. Staff plans meals monthly with the residents. There are routine meals at set times, but staff reported that the residents don't have to eat at those times, and they can eat in their rooms unless the resident has a choking risk. Snacks are available to residents. One resident was observed going into the kitchen and getting a snack. Grocery shopping is completed weekly utilizing food stamps from the residents and local food banks to get all their needed supplies. Outings have to be planned in advance so money can be requested from the provider, who is their representative payee. If a resident wanted to do an impromptu or last minute shopping outing, and there was enough staff available, the staff try to accommodate those requests. When asked about employment, the program director indicated one resident works at a local restaurant 1-2 days a week. No other residents were employed. Historically, two residents had volunteered at the local humane society. During the documentation review and conversation with the program director, multiple staff were in the kitchen. All of the residents were in the large living room: some were wandering about without any focused activity or interactions with each other or staff, others who were seated on the couch in

front of the television were sleeping or not watching what was on the screen. There was little interaction between the staff and residents during the visit. The site visit team was given a tour of the home. Since the painters were painting bedrooms downstairs, the team was able to see those rooms without going in them. There were some personal items in the rooms; staff indicated that the rooms were not decorated because they were being painted. One resident showed the team to his bed area upstairs in the large 5-person room. The room was large and the beds were spaced out, but there were no dividers or barriers between any of the beds to afford privacy. There were also some personal items near each of the beds. The team was not shown any other rooms by the other residents. During the tour, a resident was seen taking linens into the laundry room, but it was not observed if he put them into the washing machine or left them for staff to wash. There appeared to be no other activities available for the residents other than watching television.

**Findings of Site Visit:**

Rule Citation	Rule 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.	Individuals in the facility do not have access to the community similar to anyone not receiving HCBS. All outings are planned as a group. The plans, and staff conversations, did not reference or show any residents involved or engaged in the local community. One resident's plan said that he likes sporting events, football and going to parks but there is no evidence that he does these things. Another resident's plan listed preferred activities as Braves' baseball game, aquarium, shopping mall and races; there was no evidence in his plan that he attended any of these. Staff noted that one resident worked 1-2 days a week. There was no evidence in the plans of assisting other residents to explore employment opportunities. The program director of the setting noted that some residents work at the day program, if they do not misbehave. Individuals have very little control over personal resources. The provider is the representative payee for all residents. The residents get a weekly \$10 allowance; otherwise staff put in a request in advance to access funds. The setting had a Program Charter that



Rule Citation	Rule Language	Violation Finding Based on Site Visit
		<p>stated: "Notify staff if you want to leave the property/area."</p> <p>Spring Villa Group Home- EAMH should 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, and the ability to control their finances and choose a community financial institution.</p>
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>The plans documented that some residents were mandated to live there by court order or transferred from a correctional institution. None of the plans indicated any review of other housing options, either in the present or in the future. Administrative staff noted that participants must earn their way to nicer/better homes. One resident was noted as not liking cats and he had a behavior program not to harm cats because another resident has a cat. His behavior program includes calling legal authorities if he harms a cat because it's against the law. There was no documentation that he had been provided a choice to live somewhere without a cat.</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</p>

Rule Citation	Rule Language	Violation Finding Based on Site Visit
		<p>of setting, in compliance with regulatory requirements, including a choice of non-disability specific settings. CMS notes that individuals being placed at this setting by court order is not a practice aligned with this required choice. Technical assistance is suggested.</p>
441.301(c)(4)(iii)	Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.	<p>One bedroom housed five men with no dividers or other method to provide privacy. There is also a token system in place wherein residents earn tokens for good behavior and to get to do things. Likewise, tokens are taken away for “bad” behavior and people lose privileges. There was no private place in the home for residents to make phone calls or have visitors unless it was one of the two residents who had a private room. There was also a time out room located off of the main room in the house. It is not clear whether individuals are placed in this room or if they may choose to leave if they are.</p> <p>The team saw in 10 of the 11 residents’ files nursing notes for an order for Benadryl as PRN by a nurse, for insomnia and allergies, not to exceed the maximum dose of 12 -25 mg tablets in a 24-hour period. There is no documentation in the files to support that every person has an allergy or insomnia for which they would require regular administration of this same drug.</p> <p>Spring Villa Group Home- EAMH 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, and eliminating the token system. When the state allows for restraint or restrictive interventions during the delivery</p>

Rule Citation	Rule Language	Violation Finding Based on Site Visit
		<p>of HCBS, the state must assure that the intervention is based on an individual assessment and documented in the person-centered service plan.</p>
441.301(c)(4)(iv)	<p>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>There are no cell phones permitted per Program Charter: “Cell phones are not permitted at the residential program unless the individual is capable of and can demonstrate responsible and appropriate use (documented via cell phone assessment).” There is no ability to be connected to the community either physically or virtually. Residents did not have control over their schedules or their activities. During the visit, there was nothing in which the residents could engage beyond watching television. No other activities, like puzzles, board or video games or cards were visibly available to the residents.</p> <p>Spring Villa Group Home- EAMH must ensure their model of service delivery aligns with the regulatory criteria 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. Establishing partnerships with community resources and leveraging existing community transportation options should be explored.</p>
441.301(c)(4)(v)	<p>Facilitates individual choice regarding services and supports and who provides them.</p>	<p>Most of the residents attended the day program run by the residential provider, which was closed due to staffing shortages. It is not clear if individuals are afforded choice of providers for non-residential services.</p> <p>Spring Villa Group Home- EAMH must revise their model of service delivery to ensure that individuals have access to services and supports that the individual has</p>

Rule Citation	Rule Language	Violation Finding Based on Site Visit
		<p>been assessed to need, and that the individuals have the ability to choose from whom they receive those services and supports.</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>A lease is in place for each resident but it is vague on eviction protections and appeal rights for the residents.</p> <p>Spring Villa Group Home- EAMH 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)(B)(1)	<p>Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.</p>	<p>A lock was not observed on the bedrooms or bathrooms. Service Plans and key assessments indicated residents could not have keys. One of the questions on that assessment asked if the person had health concerns that required staff to have immediate access to the person. The response was "No however, people would be determined not eligible to have a key "due to health and safety risks." The modification was placed without justification in the person-centered service plan.</p> <p>Spring Villa Group Home- EAMH must ensure that units have entrance doors lockable by the individual,</p>

Rule Citation	Rule Language	Violation Finding Based on Site Visit
		with only appropriate staff having keys to doors. Any modifications on the ability of an individual resident to lock their door must be based on an assessed need and documented in the person-centered service plan.
42 CFR 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.	Residents did not have control over their schedules or their activities. All activities were planned ahead of time.  Spring Villa Group Home- EAMH must ensure their model of service delivery aligns with the regulatory criteria to support participants' ability to control their schedules and activities. In addition, while not directly linked to the regulation, CMS suggests that this setting investigate alternative options for securing sufficient food, so reliance on food banks is not necessary.
441.301(c)(4)(vi)(D)	Individuals are able to have visitors of their choosing at any time	It is not clear that people can have visitors; there is no private space for people to meet with visitors unless they go outside, or it is one of the two residents who have a private room.  Spring Villa Group Home- EAMH should revise its current practice to permit individuals to have visitors at any time.
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.	Plans indicate many modifications and restrictions without any supporting documentation. As noted above, restrictions for the men including no lockable doors, no access to visitors of their choosing at any time, and no ability to control schedules, are not supported by an individually assessed need or justified in the plan.  The state Medicaid Agency, and the entity that ensures the development of the person-centered service plan

Rule Citation	Rule Language	Violation Finding Based on Site Visit
		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 Spring Villa Group Home- EAMH must adhere to the plan.

Additional Provision	Language	Violation Finding Based on Site Visit
State Medicaid Director Letter #19-001 <sup>2</sup>	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>The compliance manager indicated she was the one who provided all the HCBS training for staff; evidence of staff understanding of that training was not apparent, as staff were unaware of the regulatory criteria.</p> <p>Spring Villa Group Home- EAMH should ensure all employees have consistent and reinforced training on the HCBS settings regulatory criteria.</p>

### Georgia Valeria Group Home - Operated by East Alabama Mental Health

#### Facility Description:

This is a 12-person group home that was formerly an institution for mental disease (IMD) up until the late 1980s, per the provider. The home is on a corner lot that is tucked off the curve of the road and surrounded by a high chain link fence. It is a one-story facility that houses both men and women in private bedrooms. There is a parking lot for staff cars and facility vehicles once you pull through the gate from the street. Outside the facility are four benches spaced apart across the front of the building, and a swing on one side. Upon entry into the facility, there is an office on the left and a time out room on the right of the short hallway that leads to the main hallway of the setting. There is a dining area, a kitchen, and a large open common area. There is no furniture in the middle, and there were no decorations, nothing to make it seem homelike, only a television on the wall. Across from the open common area is a small

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

conference room, with another office adjacent. Continuing down that main hallway leads to some of the residents' rooms. The overall shape of the hallways generally makes an "H" for the facility. There are four bathrooms total in the facility; three residents share each bathroom.

### **Site Visit Review Description:**

The site visit team was greeted by the provider administrator. State staff opted to wait outside the facility while the team went in. The team walked inside, getting a partial tour down the main hallway, seeing the dining room and common area, where it appeared all the residents were sitting. There were no activities going on; all were just sitting. At least one staff member was present in the room with the residents, but she was on her cell phone. The team met another staff member later who was the program director for the facility. The team reviewed service plans and accompanying documentation. The provider compliance manager would check in on the team and the team would ask questions while reviewing the documentation. Since this location is run by the same provider as the previous location, the team saw similar concerns in the documentation. Many plans had schedules in them comprising a person's daily activities, outlining mealtimes, large blocks of free time, trainings/chores, medication times, outing times (usually only one hour), and a time for lights out. The compliance manager noted that no one at this facility works, though some residents may engage in some prevocational work. The compliance manager stated that the service coordinator and quality assurance staff ask monthly about employment; however, there's no evidence of this in the service plans. The facility also had a Program Charter. The residents had behavior support plans that lacked clarity and restricted residents' activities based on behaviors without individual assessments. Residents normally attend the provider's day program, but it was closed due to staffing shortages. There was a day program staff member present to provide programming or training during the day, but the team did not observe any activity during the visit. After reviewing the documentation, the team was shown one of the resident's rooms by a resident who was willing to show it. The program director for the setting joined the team at this point. The resident's room was a private room and appeared to have personal touches in the decorations and furniture, though it was sparse. The team also saw one of the four bathrooms which was large and meant for one person to use at a time. Each resident carried their toiletries back and forth to the bathroom when they intended to do personal hygiene. Staff showed the team the rest of the common areas of the facility, including the locked kitchen. The staff noted if a person wanted to do an individual outing, and the facility had enough staff, they could accommodate the request. The director stated that while the team was reviewing documentation, a couple of residents went to the store (with staff) to get snacks and came back. The local oversight provider indicated that there are some residents who do go to church, naming two churches nearby and one downtown, and stated they try to honor church preference for the residents. Staff also noted that only 4 of the 12 residents have family that are involved in their lives. Many of the residents were previously in institutions, and some of them have lived here since it was an IMD. Staff noted gates are locked on third shift as they have had attempted facility break-ins and staff car break-ins in previous years; the surrounding neighborhood has a high crime rate.

**Findings of Site Visit:**

Rule Citation	Rule 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>Individuals in the facility do not have access to the community similar to anyone not receiving HCBS. Setting staff noted there must be enough staff on hand to facilitate individual outings. There was no emphasis on work, exploration of employment or volunteering in the plans. Residents do not have control of personal resources; the provider is the representative payee, and the monies are in a collective account. The plans do not contain documentation of anyone working on any goals regarding money management. No true community engagement is occurring; no one is provided opportunity to access the community aside from group outings.</p> <p>The Georgia Valeria Group Home- EAMH should ensure their model of 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, and the ability to control their finances and choose a community financial institution.</p>
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</p>	<p>Staff stated that some residents have been there since it was an IMD in the late 1980s. The team did not see any choice of setting offered in the plans. None of the plans indicated any review of other housing options either in the present or in the future. Staff (who were with the site visit</p>



Rule Citation	Rule Language	Violation Finding Based on Site Visit
	<p>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>team throughout the day) told the site visit team that participants “had to earn their way” to “nicer” homes.</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>Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.</p>	<p>The team saw behavior support plans that penalized residents for what was determined by staff to be bad behavior. Penalties included loss of privileges. It is not clear if residents have cell phones or even access to a phone at the setting. The team saw in 5 residents’ files nursing notes for an order for Benadryl as PRN by a nurse, for insomnia and allergies not to exceed the maximum dose of 12 -25 mg tablets in a 24-hour period. There is no documentation in the files to support that each person has an allergy or insomnia for which they would require regular administration of the drug. There was also a time out room in the hallway. It is not clear whether individuals are placed in this room or if they may choose to leave if they are.</p> <p>There are restrictions in place through behavior support plans which were discontinued about one month before the site visit. The replacement is the Charter which is a guide that allows staff to respond to negative behavior with a range of restrictions that includes a hierarchy from loss of privileges to restrictions on attending community events, without a written assessment and approved behavior program.</p>

Rule Citation	Rule Language	Violation Finding Based on Site Visit
		<p>Georgia Valeria Group Home- EAMH 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. When the state allows for restraint or restrictive interventions during the delivery of HCBS, the state must assure that the intervention is based on an individual assessment and documented in the person-centered service plan. Loss of privileges and restrictions on community participation must not be enacted based on general behavior. Any modifications on the ability of an individual resident to engage with their community must be based on an assessed need and documented in the person-centered service plan.</p>
441.301(c)(4)(iv)	<p>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 team saw schedules in residents' plans that structured their day and lacked significant meaning in the types of activities listed (trainings, chores, medications, etc.). There were no activities visible in which residents could engage beyond a television. During the visit, the residents were all gathered in the common area and sitting in the furniture around the perimeter of the room. There was no interaction observed between staff and residents; the one staff present in that room was on her phone.</p> <p>Georgia Valeria Group Home- EAMH must ensure their model of service delivery aligns with the regulatory criteria 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. Establishing partnerships with community resources and</p>

Rule Citation	Rule Language	Violation Finding Based on Site Visit
		leveraging existing community transportation options should be explored.
441.301(c)(4)(v)	Facilitates individual choice regarding services and supports and who provides them.	<p>The plans did not show evidence of choice of non-residential providers; it appears most residents attend the day program (when it is open) run by same provider.</p> <p>Georgia Valeria Group Home- EAMH must revise their model of service delivery to ensure that individuals have access to services and supports that the individual has been assessed to need, and that the individuals have the ability to choose from whom they receive those services and supports.</p>
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>A lease is in place for each resident but it is vague on any eviction protections for the residents.</p> <p>Georgia Valeria Group Home- EAMH 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>

Rule Citation	Rule 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>Reviewing the documentation, only three residents were assessed to have keys (out of 12), even though everyone has their own room.</p> <p>Georgia Valeria Group Home must ensure that units have entrance doors lockable by the individual, with only appropriate staff having keys to doors. Any modifications on the ability of an individual resident to lock their door must be based on an assessed need and documented in the person-centered service plan.</p>
42 CFR 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>Staff determine the schedules as noted in plans and staff plan activities (none were observed during the visit). The team did see snacks on the kitchen counter; however the kitchen is fully enclosed and the door to the kitchen is kept locked as confirmed with the team by staff in the setting. This limits residents' access to food. No documentation was noted in the plans that this restriction was assessed as needed.</p> <p>Georgia Valeria Group Home- EAMH 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. In addition, Georgia Valeria must revise its model of service delivery to ensure that individuals have the freedom to control their own schedules and activities.</p>
441.301(c)(4)(vi)(D)	Individuals are able to have visitors of their choosing at any time	Staff stated only 4 residents have family involved, so it is likely that not too many people have visitors. One of those 4 residents had a note in the plan that they had a cousin who lives nearby and does visit, but it did not

Rule Citation	Rule Language	Violation Finding Based on Site Visit
		<p>indicate the frequency of those visits. No other evidence of visitors was seen or observed.</p> <p>Georgia Valeria Group Home- EAMH 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>
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>The team noted in this setting that modifications, such as access to food at any time or the inability to have a key, are not supported by an individually assessed need or justified in the service plan.</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 Georgia Valeria Group Home- EAMH must adhere to the plan.</p>

Additional Provision	Language	Violation Finding Based on Site Visit
State Medicaid Director Letter #19-001 <sup>3</sup>	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.	The compliance manager indicated she was the one who provided all the HCBS training for staff; there was no evidence that staff were knowledgeable about the HCBS settings criteria.

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

		Georgia Valeria Group Home- EAMH should ensure all employees have consistent and reinforced training on the HCBS settings criteria.
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**Opelika Retirement Group Home & Northside Duplex- Operated by East Alabama Mental Health**

**Facility Description:**

This facility is located in a neighborhood in central Opelika on a deep lot that holds two settings operated by the same provider. One long driveway provides vehicle access to both settings, but they are separate buildings. The site visit team split into teams of two to review both settings at once. The CMS representative and one member from New Editions conducted the visit on the retirement home. The back setting is the retirement home and is a one-story building with a covered patio that is at the end of the driveway. There is a fence to separate the driveway from the covered patio space. The team could see and hear staff and music from the patio, and most of the residents were out there as well. This setting has a living and dining space and bedrooms. The kitchen was galley style and connected to the laundry room. Next to the tables on the right, closest to the front door, was a couch and next to it was a large, dirty fish tank and a television. The setting can house up to thirteen residents, but only eight live there currently. Most rooms were either double or triple occupancy. There are five bathrooms that are shared by residents. Staff indicated there are not assigned bathrooms for residents; they use whatever is available. The Northside Duplex is located at the front of the lot. The facility sits in front of the retirement home owned/operated by the same provider on the back of that lot. The ACL representative and one member from New Editions conducted the visit on this setting. This smaller team was provided access to the setting by the provider compliance manager. It is a one-story duplex, with four women living on one side of the duplex and four men living on the other side. Each side has two bedrooms in the front of the duplex, a short hallway, then a kitchen and common area, and off the common area another shared bedroom. Each side of the duplex has a small back patio the residents can access.

**Site Visit Review Description:**

At the retirement group home, the two-person team was greeted by the provider administrator. She noted the setting had three outbreaks of COVID-19 during the course of the pandemic. Additionally, she indicated it was her desire to make the setting larger in order to house more people in this particular setting. The team was provided a tour of the setting. One resident was sitting on the couch and another resident was sitting in his wheelchair across the room. His chair was backed up against a wall, facing the door that led to the patio. If he wanted to watch the television, which was on, he would have had to turn to his wheelchair around. The team reviewed the service plans and other accompanying documentation which indicated the setting was designed for people who were fifty-five years of age or older and needed close supervision for medical conditions. It was also noted through service plan review that

some residents were relocated from a group home that had closed. Some of those residents were noted to be under fifty-five. One staff member onsite typically works at the day program operated by the same provider, but since the day program is closed, she comes to this residential setting to provide programming. The team saw a framed notice hanging on the wall calling attention to all staff that all individuals are to sit at the dinner table for meal time. It also indicated that any questions regarding the notice should be directed to the provider administrator and included the provider administrator's signature. Staff asked the male resident in the wheelchair if he would show the team his room, and he agreed. While it was noted he can move his own wheelchair, the team also noted staff walked with him down the hall as he would not be able to get into his room without staff assistance. The location is not physically accessible for him; he would not be able to pivot his chair into the room independently. He lives in a double room but currently has no roommate. It was clear by the decorations that he is a University of Alabama football fan. The team asked if he could have overnight guests; the staff said they typically try to help family or friends find a local hotel instead and have the resident go stay with them. There are no locks on bedroom or bathroom doors for the entire setting. All bedroom doors were open even though residents were not in them. The rooms did reflect individual tastes in decorations despite being shared. At 2:30pm, staff were preparing dinner. Staff noted residents could be in the kitchen supervised. Other residents were on the patio engaged in puzzles or games at a table, some were sitting and listening to the music playing. The team engaged in a brief conversation with one resident; she knew limited sign language and does not use words to communicate.

At the Northside Duplex, the site visit team met with staff and residents in the dining/living room area of the home. Staff reported that residents enjoy a lot of community activities as a group, especially those associated with live music. They also go for walks, shopping, out to eat, and the movies together. Each person has a personal decorations in their bedrooms, as well as some personal items in the shared living spaces. Staff noted they develop menus based on residents' preferences and cook group meals. Residents reported having access to food at any time; and the site visit team noted food available in the kitchen area (bowls of fruit, bread rolls that could be easily accessed by the residents).

#### Findings of Site Visit:

Rule Citation	Rule 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	The plans document the limited amount of time residents spend in the community. One person's documentation had a goal of going out into the community only once a month. There is no documentation or plans indicating how residents might belong in the community through

Rule Citation	Rule Language	Violation Finding Based on Site Visit
	<p>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>volunteering, community groups, etc. In the consumer assessments, one resident indicated they cannot have a job if they want one, and they do not have the help they need to look for one if they desired. Another resident expressed the desire to work during the visit, indicating he had held a job previously. A staff member said that it is unlikely that the resident can obtain and sustain a job because of his disability. Although the residents of the Northside Duplex attended activities in the community, none were integrated in, or part of their community. All activities were done as a group, not individualized. There was no opportunity to take part in a community organization – a gym, a church, volunteering etc. A female resident indicated multiple times during the site visit that she did not want to reside with roommates; she stated she wanted to live in an apartment by herself. There was nothing reflected in her plan to support her desire to reside at another location, nor were there any goals in her plan to support her moving towards a different living situation.</p> <p>Most of the plans documented that the provider was the representative payee for the residents; there is no indication on how residents could access or control their personal resources.</p> <p>The Opelika Retirement Group Home &amp; Northside Duplex – EAMH should 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 settings should</p>



Rule Citation	Rule Language	Violation Finding Based on Site Visit
		<p>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.</p>
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>Some residents of the retirement home are there because the previous group home they lived in closed. There is no evidence that participants were provided an informed choice of setting, or an option for a non-disability specific setting. There are no private rooms in either of these settings.</p> <p>No choice of different living options were evidenced through service plan reviews and interviews with staff. The youngest resident in the women's duplex expressed a desire to move out but was looking with hesitancy at the staff as she was saying it.</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>Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.</p>	<p>The home has a landline phone, but it is not clear where a resident would be able to take or make a call in private.</p> <p>Opelika Retirement Group Home &amp; Northside Duplex-EAMH must ensure their model of service delivery aligns with the regulatory criteria to support participants' right to privacy, including the ability to make and receive calls in private.</p>

Rule Citation	Rule Language	Violation Finding Based on Site Visit
441.301(c)(4)(iv)	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>Based on documentation in the plans, residents do not have choice in their daily schedules or mealtimes. The plans noted very specific, and almost identical, daily schedules. Residents at the retirement home got up at 5 a.m., eat at the same time, have dinner between 4:30 p.m. and 5 p.m., and are in bed at 8 p.m. Per signage hanging in the setting, all residents must eat at the table for dinner, removing choice for residents in determining with whom to interact. One resident who moved in used to attend a day program but doesn't any longer. No reason was given in the documentation, but staff confirmed that particular day program is open. Many residents could benefit from some type of assistive augmentative communication device, but there is no documentation in any of the plans exploring this option to facilitate a person's ability to communicate with others.</p> <p>The women, most of whom are over 75 and up to 80 years of age, get up at 5:30 am to get the bus for the day program. There is no discussion about altering their schedule. The compromised functioning of the residents who have intellectual disabilities requires support to educate them about options and explore their preferences. The interaction between staff and residents and the content of the plans support a continuation of the present arrangement for each person without offering any resident any new opportunities (such as to become a member of a church, to join an afternoon walking club, to join a senior center) or change of living arrangement.</p> <p>Opelika Retirement Group Home &amp; Northside Duplex-EAMH must ensure their model of service delivery aligns</p>

Rule Citation	Rule Language	Violation Finding Based on Site Visit
		with the regulatory criteria 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. Establishing partnerships with community resources and leveraging existing community transportation options should be explored.
441.301(c)(4)(v)	Facilitates individual choice regarding services and supports and who provides them.	<p>Exploration of choice within the residential setting is not documented in the plans and it is unclear if individuals have a choice of non-residential services and who provides them.</p> <p>Opelika Retirement Group Home &amp; Northside Duplex-EAMH must revise their model of service delivery to ensure that individuals have access to services and supports that the individual has been assessed to need, and that the individuals have the ability to choose from whom they receive those services and supports.</p>
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	Opelika Retirement Group Home & Northside Duplex-EAMH 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.

Rule Citation	Rule Language	Violation Finding Based on Site Visit
	processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.	
441.301(c)(4)(vi)(B)(1)	Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.	<p>Per staff, there are no locks on any bedroom doors or bathroom doors. The front door does lock. It is not clear if residents have access to that code to gain entry or exit.</p> <p>Opelika Retirement Group Home &amp; Northside Duplex-EAMH must ensure that units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.</p>
42 CFR 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>Residents have almost the exact same schedule that begins at 5 a.m. One resident's assessment responses noted the resident doesn't make her own schedule; she cannot decide her schedule. It is not clear residents have access to food at any time. One resident's assessment stated he cannot eat where he wants.</p> <p>Opelika Retirement Group Home &amp; Northside Duplex-EAMH 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 the individual's person-centered service plan, for any restrictions. In addition, the provider, EAMH, must revise its model of service delivery to ensure that individuals have the freedom to control their own schedules and activities.</p>
441.301(c)(4)(vi)(D)	Individuals are able to have visitors of their choosing at any time	Staff indicated that residents can have visitors; plans note some residents have, or had family members visit (more pre-COVID). However, the consumer assessment questionnaires reflect residents saying they cannot have visitors at any time. Staff noted that guests who wish to stay overnight are assisted in finding local hotel

Rule Citation	Rule Language	Violation Finding Based on Site Visit
		<p>accommodations instead of staying at the setting. It is not clear visitors can come at any time.</p> <p>Opelika Retirement Group Home &amp; Northside Duplex-EAMH 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>
441.301(c)(4)(vi)(E)	The setting is physically accessible to the individual.	<p>One resident residing in the Opelika Retirement Group Home didn't appear to be able to independently access all parts of the home. For instance, he required staff assistance to pivot his power wheelchair into his bedroom due to the size of the hallway and the width of the entryway into his room.</p> <p>The Opelika Retirement Group Home must ensure that the home is physically accessible for all individuals living in the home. Each individual should be able to access all areas of the home, including with needed equipment such as wheelchairs.</p>
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>The service plans have no information about existing modification that are in place, or supporting documentation for modifications in place, such as no locks on doors, limitations on visitors at any time, including overnight guests, and control of personal schedules.</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</p>

Rule Citation	Rule Language	Violation Finding Based on Site Visit
		into the plan and Opelika Retirement Group Home & Northside Duplex- EAMH must adhere to the plan.

Additional Provision	Language	Violation Finding Based on Site Visit
State Medicaid Director Letter #19-001 <sup>4</sup>	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.	It is not clear that staff are properly trained on HCBS requirements, and it is not evident in practice or policy that they are compliant.  Opelika Retirement Group Home & Northside Duplex-EAMH should ensure all employees have consistent and reinforced training on the HCBS regulatory criteria to properly.

## Rainbow Omega Campus

### Facility Description:

Rainbow Omega is located in Eastaboga, AL, approximately 2.5 miles from downtown. It is a campus setting that has group homes and a day program located onsite. There is also an intermediate care facility on campus. Additionally, there's a sheltered workshop on the campus. Administrative staff noted there are twenty HCBS participants at this setting; nineteen participants reside on campus and one only attends the day program.

There are six homes on the campus; the team toured one. The home had a front porch with rocking chairs. The front door opened into a living room area with couches and chairs arranged around a television. There was a dining area beyond that with one large table, and the kitchen behind the dining area. To the left and right of the living area were hallways that led to the residents' rooms. Each resident has their own room and shares a bathroom with one other resident. The bathroom is jack and jill style between the rooms and not accessible off the hallway. The rooms were all personalized with decorations, furniture and items of interest to each resident. Most residents seemed to have some form of communication available to them in their rooms, either via a cell phone, tablet, computer, or some combination of those items. The home was clean and well appointed.

<sup>4</sup> [Heightened Scrutiny SMD-SMDL Final \(medicaid.gov\); see question 10](#)

The day program is a large building in one corner of the campus, and largely walkable from the homes on site. The main doors opened into a lobby area, with a large conference room and some offices to the right, and straight ahead was a hallway that lead to the cafeteria and kitchen, some smaller training rooms, and the large workshop area in the back of the facility. The workshop area was divided into two main spaces: one space to work on putting together vehicle owner manual packets for the Honda contract the provider had, and the other area was set up for participants to do piece work related to car parts. There were approximately 8 rows of tables, with an aisle down the middle. Each table was divided into approximately four work stations, where workers separated various small car parts and placed them in plastic bags. There is a small workout room onsite, a computer lab for use by participants in training, and two other small training rooms.

### **Site Visit Review Description:**

The team met the state staff at one of the homes first as they learned the residents were waiting to speak with them prior to going to the day program. There are eight women of varying ages who reside in the home that was toured by the site visit team. The team entered the home and all of the residents were sitting in the living area with their lunches packed, waiting for the team. Two staff members for the home were present as well. The team split up and spoke with the residents who were all happy to talk to the team. Most of the residents offered to show their rooms to the team. The rooms were personalized to the residents' tastes and interests, including family photos, favorite movies, and personalized furniture. The residents have access to the kitchen as one shared that she likes to cook and makes breakfast for her housemates on the weekends and will also bake pound cakes to share. This resident also likes to garden and is growing rose bushes in front of the home. Residents stated they have keys to their rooms and share a bathroom with just one other resident. Many will regularly call or FaceTime with their families, and some have family close enough to visit regularly. Some of the team also spent time interviewing the staff. Staff noted that days are regimented with wake up times, work time, after work activities, evening meals, bathing, and bedtimes. The staff noted the residents enjoy the schedule and are agreeable to having the daily schedule. Meal plans are developed by the cafeteria at the setting and distributed to the group homes. Staff goes to the main building to pick up the supplies they will use to cook the daily meals from the meal plans. If residents do not want to make what is on the menu, they can use the ingredients to create a different meal, as well as ask the main cafeteria for additional ingredients when needed. Staff noted that individuals can purchase their own food items to keep in the kitchen and eat as they choose. Staff also reported that activities away from the campus occur on the weekend and are done as a group. The team met with the Chief Operating Officer, and two staff members with the Day program. The state staff joined the team in the building. The team were shown to a large conference room to review the plans and accompanying documentation for the HCBS participants at the setting. After the review, the team was given a tour of the setting starting in the cafeteria and kitchen. As part of the kitchen tour, the staff showed the large pantry stocked with non-perishable items (pudding cups, macaroni and cheese, condiments, etc.) that the houses used to get

some of the food supplies for their homes. The team was then taken to the large workshop area in the back and shown the two different work areas. To the left was the assembly space for the vehicle owner manuals; this is through a contract with Honda. To the right was the assembly space for the piecework done on small car parts. The majority of the participants were in this area. The team, during the tour, asked questions of the staff about the work done and the other day activities on site. The team was shown a small workout room right off the main work area, and a small arts and crafts room as well. Through a door down another hallway that connected back to the conference room and offices were a computer lab used for training, and another small room used for training. Staff shared that they typically have about 5 people in a group when they do a training, but people aren't assigned to a group or a certain activity. If there was any outdoor space for people to gather on a break, the team was not shown that. The tour ended back in the conference room.

**Findings of Site Visit:**

Rule Citation	Rule 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.	The setting requires all visitors to the campus to check in at the main administration building. Staff noted that they typically do outings in groups and by house. One resident explained that half the homes belong to one church and the other half of the homes belong to a different church. Reviewing the activity logs in the person-centered service plans showed most outings occurred on the weekends and were scheduled. Based on interviews and a review of service plans, individuals are not offered the opportunity to work in the community. The facility has a sheltered workshop/day program on the grounds where all residents work/attend. The director's presumption is that most people cannot work competitively without an assessment of supported employment job finding services. Part of every admission agreement was Attachment A: Supported Employment Work Center Guidelines, which indicated revenues received by Rainbow Omega, Incorporated (ROI) in connection with the Work Center are used to maintain the Work Center, and attendance by participants is critical to keeping the work center running. These



Rule Citation	Rule Language	Violation Finding Based on Site Visit
		<p>guidelines also state that participants are allotted 22 days that they can miss, but if they exceed that number of days during the fiscal year, the participant/guardian are responsible to pay the ROI \$59.95 for each such additional day of absence. It is unclear if people have control over all of their personal resources. In every service plan binder at the Day program office was the person's ID, voter ID, insurance cards, and a 'Grand Lodge of AL Child ID program' envelope and CD. These were all together in a clear zipped pouch in the binder.</p> <p>Rainbow Omega should ensure their model of 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, and the ability to control their finances and choose a community financial institution.</p>
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>From record reviews and interviews, there is no evidence of choice at the time of admission or currently. There is no offer to look at different options for living or work.</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>

Rule Citation	Rule Language	Violation Finding Based on Site Visit
441.301(c)(4)(iii)	Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.	<p>The admissions agreement prohibits “the illicit use, possession, sale, or distribution of an illegal drug, alcohol, or controlled substance.” It also states “Resident agrees to be subject to periodic, random, pre-admission and reasonable suspicion drug and/or alcohol testing by ROI”. There were cameras in the common areas of the home visited by the team. The cameras were located by the front door that could have covered the living room, dining area and part of the kitchen and one camera down each hallway where the bedrooms were located. Cameras were not noted in the admission agreement or any other documentation reviewed.</p> <p>Rainbow Omega must ensure their model of service delivery aligns with the regulatory criteria to ensure individuals are afforded privacy, dignity, respect and freedom from coercion and restraint. Rainbow Omega should amend policies that restrict rights of individuals to engage in legal activities and stop testing for these legal activities. Rainbow Omega should also verify the legality of testing residents for drug use. Lastly, Rainbow Omega must ensure that remote monitoring is allowable during the delivery of HCBS in Alabama and ensure the privacy of each resident when in use.</p>
441.301(c)(4)(iv)	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>Service plans, staff interviews, and participant interviews indicate daily schedules, meals, and activities are determined by staff and designed to support the group as a whole rather than specific individual needs or desires.</p> <p>Rainbow Omega must amend their model of service delivery 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>

Rule Citation	Rule Language	Violation Finding Based on Site Visit
		<p>Participants should be able to choose where they go each day, when they go out and with whom. Establishing partnerships with community resources and leveraging existing community transportation options should be explored.</p>
441.301(c)(4)(v)	<p>Facilitates individual choice regarding services and supports and who provides them.</p>	<p>All residents work or attend the day setting on the campus. There is no evidence included in the service plans, or gathered from participant or staff interviews, that support other options for services/supports, including who provides them, being explored.</p> <p>Rainbow Omega must revise their model of service delivery to ensure that individuals have access to services and supports that the individual has been assessed to need, and that the individuals have the ability to choose from whom they receive those services and supports.</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</p>	<p>The admissions agreement heavily favors the provider as landlord with many opportunities for them to immediately discharge the resident. The admission agreement includes a section on requiring the resident/guardian to pay a monthly minimum fee of \$50 for “all personal expenses incurred by Resident, including: medical, psychological and dental expenses, including copayments; individual medical and private transportation; incidental personal expenses; or additional ROI costs for supervision and transportation for Resident to participate in non-scheduled ROI activities or not to participate in ROI planned activities, and any other expense incurred by the Resident over and above services provided by ROI.”</p> <p>Rainbow Omega must ensure that a lease, residency or other written agreement is in place for each individual and</p>

Rule Citation	Rule Language	Violation Finding Based on Site Visit
	provided under the jurisdiction's landlord tenant law.	that the agreement provides protections from evictions and appeals processes that are comparable to those in the jurisdiction's landlord tenant laws.
42 CFR 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>Staff noted outings are in groups and by house. One resident explained that half the homes belong to one church and the other half of the homes belong to a different church. Reviewing the activity logs in the service plans showed most outings occurred on the weekends and were scheduled. Staff interviews supported a set time for group meals for all residents, as well as for other home related activities.</p> <p>Rainbow Omega should revise their method of service delivery to ensure that individuals can control their schedules and activities and have access to food at any time, including outside of scheduled meal times.</p>
441.301(c)(4)(vi)(D)	Individuals are able to have visitors of their choosing at any time	<p>The admission agreements states overnight guests are not permitted.</p> <p>Rainbow Omega 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>
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>Modifications to the additional regulatory conditions are built into the admissions agreement as restrictions for everyone. There is no individualized assessment to determine if they are actually needed.</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</p>

Rule Citation	Rule Language	Violation Finding Based on Site Visit
		for the person-centered service plan should ensure that all modifications for a specific individual are incorporated into the plan and Rainbow Omega must adhere to the plan.

Additional Provision	Language	Violation Finding Based on Site Visit
State Medicaid Director Letter #19-001 <sup>5</sup>	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.	Based on the practices and policies and interviews, employees do not understand the HCBS settings rule.  Rainbow Omega should ensure all employees have consistent and reinforced training on the HCBS regulatory criteria to properly implement them.

## Martinwood- Operated by Progressive Healthcare Providers of Alabama

### Setting Description:

The group home is located on the northeast side of Birmingham in a residential neighborhood. The home has various churches, fast food restaurants, grocery stores and other retail stores within a 2-mile radius. The home sits on a large yard and has a carport. The front door of the home leads into the living area with a large television. There is a kitchen and three bedrooms. Three male residents who live here, each have their own private room which was decorated to reflect the residents' interests and preferences. The house was older and well maintained.

### Site Visit Review Description:

The house manager welcomed the site visit team, meeting in the front yard as the residents were finishing up their lunch. State chose to stay outside during the visit. Once inside, the site visit team was greeted by the residents and two other staff members. The team was provided service plans to review. Although residents were home, they are typically at day program during the day. Residents stayed home so the site visit team could meet and talk with them. The site visit team also conducted conversational interviews with the three staff (house manager, lead/supervisory staff, and direct support staff) and a resident while reviewing the service plans. All three residents had various communication challenges, but the staff were able to understand what they communicated. From

<sup>5</sup> [Heightened Scrutiny SMD-SMDL Final \(medicaid.gov\); see question 10](#)

observation and conversation, it was clear that staff know the residents, their preferences and they honor choices the residents make within the home regarding food and activities. Staff noted the residents go to church. One resident has been to monster truck rallies and wrestling events. The team did not identify any restrictions on their movement or activity. The staff approach to behavior support was coaching, giving people space, and making sure the environment was not causing the behavior. A resident showed the site visit team his room where the team saw his enthusiasm for wrestling and monster trucks. He also showed the team his cell phone. The house phone, which is cordless, is also located in this resident's room. The resident was able to get a drink while talking with the site visit team and shared that he visits his uncle who lives nearby. Staff share that another resident does not have his family involved at all. After one resident showed his room to the team, another resident decided to show the team his room. It too was decorated and reflected his interests. The staff were knowledgeable about the HCBS rule, with the lead staff sharing the latest information he learned at the last regional meeting held by the state. Staff noted they were excited to implement the changes because of the independence it affords individuals.

**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>None of the plans reviewed had employment goals or exploration of employment; the emphasis was on the day program which all three residents attend. While the residents did go out into the community as a group, there is no evidence for individually driven community integration which is based on choice. At least one resident had the provider as representative payee as noted in the service plan.</p> <p>Martinwood – PHP 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, and the ability to</p>

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
		control their finances and choose a community financial institution.
441.301(c)(4)(ii)	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>The plans did not indicate that this setting was selected by the individuals living there. There is no indication in the service plan that other options have been or are being explored. One resident has lived in this home since 1999.</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)	Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.	<p>The home has a cordless phone located in a resident's rooms. It is unclear if the residents get to use it privately due to its' location.</p> <p>Martinwood- PHP must ensure their model of delivery aligns with the regulatory criteria to support participants' right to privacy, including the ability to make and receive calls in private.</p>
42 CFR 441.301(c)(4)(iv)	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>The residents attend the day program together five days a week. All outings and errands are done together. It is not clear how structured mealtimes are, but lunch was ending at 11:30 a.m.</p> <p>Martinwood- PHP must amend its service delivery model 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. Establishing partnerships with community resources and leveraging</p>

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
		existing community transportation options should be explored.
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>There is a lease in place with one potential issue noted: If the tenant wants to break the lease, they need to give 60-day notice. If the landlord wants to break lease, they only have to give 30-day notice.</p> <p>Martinwood- PHP 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>
42 CFR 441.301(c)(4)(vi)(C)	<p>Individuals have the freedom to control their own schedules and activities, and have access to food at any time.</p>	<p>It is unclear how much freedom residents have to control their schedules. Lunch was wrapping up at 11:30 a.m. when team arrived at home; outings and activities were noted to be limited and typically done in a group.</p> <p>Martinwood- PHP must ensure their model of delivery aligns with the regulatory criteria to support participants' ability to control their schedules and activities.</p>



## **Lakeshore Ridge- Operated by Volunteers of America**

### **Setting Description:**

The setting is in an apartment complex located on the southwest side of Birmingham, Alabama. The apartment complex is not a provider owned or controlled setting; however, this individual apartment is provider controlled. Based on conversations with provider staff, there are other residents in this complex who use the same provider. There is a gas station, convenience store, Dollar General, grocery stores, Walmart, and restaurants within a short distance from the apartment complex. The apartment is a one-bedroom fully accessible apartment that includes an open floor plan for the kitchen, living area, and dining area. The bathroom and bedroom are down a short hallway. An accessible patio is off the living room. The furniture was arranged to allow for movement by the resident who uses a wheelchair. Personal decorations were noted in the bedroom, and staff indicated family were working on creating picture collages to be hung in the hallway. There is a swimming pool in the complex that is available to and used by the resident. The resident lives alone and has staff coverage 24/7. Staff do not live there.

### **Site Visit Review Description:**

Upon arrival, the site visit team and state staff decided that since the setting was an apartment, the state staff would wait outside the apartment during the visit. The site visit team was greeted by direct support staff and given a brief tour of the apartment. The resident was watching television in her bedroom. The site visit team reviewed the service plan and other documentation made available by both the state and the provider. The team had a conversational interview with the primary staff member present. The primary staff member interviewed shared that she was sought out by the resident and the resident asked her to be her support staff. The staff member knew the resident liked to knit and was also helping her grow flowers on her patio. Two other staff were there but were not interviewed. One of them was a staff member who provided care for the resident; the other was a supervisor. The site visit team talked with the resident separately in her room. The resident had a communication device but did not use it although it was available and visible in her room. The resident shared that she does attend the day program and does contract work there but would like to get a job. She was not sure what she would like to do but indicated that the staff at the day program could help her figure it out. Staff shared that the resident's family is involved and visit her regularly, and that she has a boyfriend; they plan to go out to the movies monthly. Staff noted the resident grocery shops, plans her meals, eats where and when she wants, and snacks were visible and available on the counter. The resident also runs other errands in the community. Staff noted she can transfer to a manual wheelchair and so they can use a car to get out. The resident has her own phone which is in her bedroom along with a television. The staff was very familiar with HCBS criteria having recently completed training. This was evident to the site visit team the by the way staff spoke about the apartment being the resident's home and they are there to support her and meet her needs and preferences.

### **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>The resident indicated she is interested in working (beyond the work she does tearing paper at the day program). This was noted in her Individual Experience Survey and staff were aware of her desire to work, but there were no employment goals in her plan. The provider serves as the representative payee for the resident; it was not entirely clear how much access she has to her money. Staff said she doesn't manage it; it was not clear if this was a goal for the participant. The resident has access to the community, but there is no evidence, in her plan or through conversation, that she is connected to her community.</p> <p>VOA 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, and the ability to control their finances and choose a community financial institution.</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 <b>receiving</b> 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</p>	<p>The lease is one page and does not provide protections that would typically be enforced by local landlord tenant law including protections and appeals around eviction processes. While staff stated that it is the participant's home and the provider does not own the complex, the direct support staff signed the lease with the complex and therefore controls the property.</p>

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
	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.	VOA 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.

### **Wilson Home- Operated by Volunteers of America**

#### **Setting Description:**

The setting is a host home located on the southwest side of Birmingham in a residential neighborhood. There are various fast food restaurants and retail stores within five miles of the home. The homeowner is the direct support staff (DSP) of the resident. There is only one participant living in the setting. The homeowner/DSP's husband also resides at the home. The resident's bedroom and bathroom are located off the foyer. The bedroom door was open and the team noted there were not many decorations. The homeowner/DSP noted that the resident has vision problems. There was a television and armchair in the foyer outside the resident's room where the resident was sitting and watching a movie. The home also has a formal living room, dining room, kitchen, and porch/deck that overlooks a park behind the home where the homeowner/DSP, her husband, and the resident take walks. The homeowner/DSP noted during the pandemic lockdown they converted one of the rooms in the house into a gym.

#### **Site Visit Review Description:**

As with the previous two settings on this day, the state staff did not accompany the site visit team into the home but remained outside. The site visit team entered the home and greeted the resident who was watching a movie. The team later spent time with the resident, but he spoke very little and was reluctant to interact. The site visit team reviewed the individual's service plan and other related documentation, as well as conducted a conversational interview with the homeowner/DSP and her husband. Of note, the homeowner/DSP and the resident were wearing matching T-shirts. The site visit team was not offered a tour of the home or of the resident's room, nor did the team ask. The homeowner stated the resident has lived there for 17 years, after being homeless. He attends a day program Monday through Friday and is transported by local transportation. The homeowner/DSP noted the resident likes to be by himself and does not talk much. They typically eat their meals family style, but the resident does not have to join them, although he usually does. There was no schedule for the meals. The homeowner/DSP noted the resident likes working out 3-4 days a week with her husband and uses the home gym due to COVID. The homeowner/DSP shared a variety of activities they do together

such as shopping, going out to eat at the Fish Market, and attending church where the resident is an active member. There are also annual trips to sporting events and antique car shows which the husband and the resident attend. The homeowner/DSP also stated that the resident has regular contact with family. They used to visit prior to COVID, but now they call on the phone more than they visit. The homeowner/DSP was very familiar with HCBS criteria having just completed training within three weeks of the visit, noting examples of the criteria such as dignity and respect. She spoke extensively about meeting the resident's needs so that he could live like anyone else.

**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>Although the provider reported several activities the resident enjoys, the resident receiving HCBS sat in a separate area of the home than the homeowners/providers watching TV in a vestibule near his bedroom. It was unclear his level of regular interaction with the staff in the home or his ability to access the community based on an assessed desire to do so.</p> <p>Wilson Home-VOA must ensure their 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>
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,	<p>The lease doesn't contain appeal processes and protections against evictions as required.</p> <p>VOA must ensure that a lease, residency or other written agreement is in place for each individual and that the agreement provides protections from</p>

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
	<p>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>evictions and appeals processes that are comparable to those in the jurisdiction's landlord tenant laws.</p>