

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



Medicaid Benefits and Health Programs Group

August 15, 2023

Jacey Cooper
Chief Deputy Director, Health Care Programs
California Department of Health Care Services
1501 Capitol Avenue, 6th Floor, MS 0000
Sacramento, CA 95814

Dear Director Cooper:

This letter and attached report are in reference to a site visit conducted by the Centers for Medicare & Medicaid Services (CMS) from June 5-8, 2023. CMS visited several settings in California 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 California. We are asking the state to apply remediation strategies addressing the feedback contained in our report to the specific setting(s) as identified. We note that the HCBS settings criteria identified in the report that are followed by an asterisk require the state to go beyond ensuring that the individual setting has completed the necessary actions identified; specifically, complying with person-centered planning requirements requires further direction to and collaboration with the entities responsible for developing and monitoring the person-centered plans and with the HCBS provider community that is responsible for implementing services and achieving the objectives outlined in the plan. In addition, CMS notes that the state's remediation strategies must be applied to all remaining similarly situated settings you have identified as being presumptively institutional that were not included in CMS' site visit to ensure compliance with the settings criteria at 42 CFR § 441.301(c)(4) by the timelines detailed in the ultimately approved Corrective Action Plan (CAP). 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 California, to ensure that all providers are being assessed appropriately against the regulatory settings criteria and will implement the necessary remediation to achieve timely compliance.

The following were identified as systemic issues across the state of California.

- There is disconnect between the Medicaid authority role of the state, the role of the regional centers/care coordination agencies (CCA) in consistent person-centered service

plan (PCSP) development, and the role of providers for the accurate implementation of services per the PCSP. These roles should be well defined and regulated so that individuals are properly supported when receiving HCBS.

- The state sent CMS the Individualized Service Plan (ISP) training for the CCAs. There is concern the training does not focus on person-centered values and as a result most of the ISPs provided by the CCAs did not provide many individually-focused details. The ISPs were very medically focused rather than being person-centered. It should be noted that PCSPs are referred to as ISPs in California. The state can access resources on person-centered values and training at [NCAAPS](#) on the [Resources page](#) and the [Webinars page](#), in addition to the CMS training on [Creating a Statewide Person-Centered Service Planning System](#).
- Some ISPs had copy and paste information for peoples' goals and desired outcomes, descriptions of services, and supports needed, despite being developed by different CCAs. Additionally, goals listed are primarily medical, such as to stay out of the ER or to minimize or control behaviors, or are generic such as to "socialize".
- The ISPs are updated every six months, but the format doesn't allow the plan to show historical data or progress on goals.

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.
- The setting optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.
- The setting 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.

- Each individual has privacy in their sleeping or living unit.
- Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.
- Individual sharing units have a choice of roommates in that setting.
- 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.
- Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.
- The setting is physically accessible to the individual.
- Any modification of the additional conditions, under 42 CFR § 441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan.*
- Description of how staff are trained and monitored on their understanding of the settings criteria and the role of person-centered planning, consistent with state standards as described in the waiver or in community training policies and procedures established by the state.

California's Statewide Transition Plan (STP) described 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 and in the state's CAP.

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 September 15, 2023.

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

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

Sincerely,

Melissa L. Harris, Deputy Director
Medicaid Benefits and Health Programs Group

Enclosure

Heightened Scrutiny Site Visit - California
Summary Review by Setting
Visit Dates: June 5 – 8, 2023

California Site Visit Team – Northern Route:

CMS Representative: Michele MacKenzie
 ACL Representative: Jill Jacobs
 New Editions: Devon Mayer, Kelly Eifert
 California: Joseph Billingsley, Vicki Smith, Eddie Wong, Andy Sam, Kevin Smith

Introduction:

The Site Visit Team visited six settings in northern California. Five settings are Residential Care Facilities for the Elderly (RCFE): City Creek Assisted Living, Gramercy Court, Fair Oaks Estates, Mountain Manor Senior Residence, and Golden Haven. One setting, Napa Valley PSI, is a non-residential Work Activity Program. All settings were identified by the state as presumptively institutional and submitted to the Centers for Medicare & Medicaid Services (CMS) for a heightened scrutiny review. Three settings were requested by the state for the site visit team to visit; the remaining settings were selected by CMS from the settings submitted for heightened scrutiny review.

Summary of Findings:

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

Regulation Citation	Regulation Language	Setting Name
441.301(c)(4)(i)	The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.	Golden Haven, City Creek Assisted Living, Fair Oaks Estates, Gramercy Court, Mountain Manor Senior Residence

Regulation Citation	Regulation Language	Setting Name
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.	Golden Haven, City Creek Assisted Living, Fair Oaks Estates, Gramercy Court, Mountain Manor Senior Residence
441.301(c)(4)(iii)	The setting ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.	Golden Haven, City Creek Assisted Living, Mountain Manor Senior Residence
441.301(c)(4)(iv)	The setting optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.	Golden Haven, Fair Oaks Estates, Mountain Manor Senior Residence
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.	Fair Oaks Estates, Gramercy Court
441.301(c)(4)(vi)(B)(1)	Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.	Golden Haven, City Creek Assisted Living, Fair Oaks Estates, Gramercy Court, Mountain Manor Senior Residence

Regulation Citation	Regulation Language	Setting Name
441.301(c)(4)(vi)(B)(2)	Individuals sharing units have a choice of roommates in that setting.	Golden Haven, City Creek Assisted Living, Fair Oaks Estates, Mountain Manor Senior Residence
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.	City Creek Assisted Living, Gramercy Court
441.301(c)(4)(vi)(D)	Individuals are able to have visitors of their choosing at any time	Golden Haven, City Creek Assisted Living, Fair Oaks Estates, Gramercy Court
441.301(c)(4)(vi)(E)	The setting is physically accessible to the individual.	Golden Haven, City Creek Assisted Living, Fair Oaks Estates,
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.	Golden Haven, City Creek Assisted Living, Fair Oaks Estates, Gramercy Court, Mountain Manor Senior Residence

Additional Provision	Language	Setting Name
State Medicaid Director Letter #19-001 ¹	Description of how staff are trained and monitored on their understanding of the settings criteria and the role of person-centered planning, consistent with state standards as described in the waiver or in community training policies and procedures established by the state.	Golden Haven, City Creek Assisted Living, Fair Oaks Estates, Gramercy Court, Mountain Manor Senior Residence

Golden Haven, RCFE – Visit June 8, 2023

Facility Description:

This setting is an assisted living setting specifically for “memory-impaired elderly.” The setting has 38 total residents, 30 of whom receive Medicaid HCBS waiver services. It is a one-story building located on a main road. The setting, including the parking lot, is fully enclosed by a locked fence; many of the residences and businesses in the immediate vicinity have similar fencing around their property. The parking lot is divided in half: one half has the gate that opens to the road and is for parking, the other half is used as the evacuation point for residents in an emergency but has no egress to prevent resident elopement. The building is square and has two narrow interior courtyards. Rooms that face the courtyards can access them through sliding glass doors in the rooms. There are also access doors at either end of the courtyards in the building’s hallways. Upon entry to the building there is a reception and office area, followed by a more formal seating/lobby area. Exiting the lobby area

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

leads to the main hallways. There are three long parallel hallways with resident rooms; two halls are for female residents and one hall is for male residents. There are also rooms on the back hall that is perpendicular to the three halls; staff noted this hall is for residents who need more support with mobility and need larger equipment. Off the back hallway is a large, open gathering space that has a large activity calendar listing the events for the month. The area has double doors that lead to a large outside area. Immediately outside the back doors is a covered veranda and seating; there are paved walkways to various garden areas. The entire back area is enclosed. The setting has single and double occupancy rooms. The room doors are lockable, but the Administrator noted that currently only two waiver residents have been assessed to be able to have keys to their rooms. The rooms have full bathrooms that are jack-and-jill style and the bathroom doors are lockable. The team saw an unoccupied double room that was furnished with two single beds, two chairs, and two nightstands. There were two closets in the room with no knob but instead had a keyed lock. The Administrator noted that this helps residents who may confuse the closet for the bathroom by not having a knob on the closet door. The Administrator also noted residents can have keys to the closet if they are assessed capable of using a key. The setting has a room that serves as an onsite beauty salon and another room that offers massage therapy and hydrotherapy. Rooms have an activity calendar posted on the wall immediately inside the door for residents to view. Residents cannot keep pets in the facility, but families are welcome to bring their pets to visit with residents. The dining room also serves as an activity room. One area of the dining room that had a partial wall for private seating and the Administrator noted this was for residents who needed to focus while eating or did not like extra distractions.

Site Visit Review Description:

The team was greeted by the Administrator and taken to the conference room next to the lobby to review documentation. The Administrator provided the team with service plans (called Individualized Service Plans, ISPs), the setting-specific service plans, the admission agreement, the setting's Assisted Living Waiver Program (ALWP) Addendum to the Admission Agreement, and the Assessment and ICP/PCP for HCBS Final Rule Compliance document, which the Administrator indicated is used for staff training on HCBS requirements. After review of the documentation, the Administrator provided the team a tour of the setting. After the tour, part of the team spoke with one of the residents while the remainder of the team spoke with the Administrator.

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 activity calendars posted only indicated in-house activities available for residents. The large activity calendar posted in the back hallway had a paper above it titled “Day Outings 2023-2024” with four outings listed: one in March 2023, one in June 2023, one in August 2023, and one in January 2024; all had an associated fee to participate. The residents have to rely on family to access the community.</p> <p>The Assisted Living Waiver Program (ALWP) Addendum to the Admission Agreement states that individuals must be assessed in order to have choice to participate in planned community activities.</p> <p>The Admission Agreement states that if a family member/responsible party cannot accompany a resident to a routine medical appointment, the setting requires that non-emergency medical transportation be used.</p> <p>Golden Haven 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. Golden Haven should develop policies, practices and resources to ensure that individuals have full access to the greater community.</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 service plans did not identify other setting options, including non-disability specific options.</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>

<p>441.301(c)(4)(iii)</p>	<p>The setting ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.</p>	<p>Residents' service plans indicated the potential for chemical restraint. The plans noted how residents were more compliant with their care after being prescribed certain medications, and four plans reviewed noted the medications are given on a regular schedule rather than as needed.</p> <p>Posted outside residents' rooms was information about the residents of the room including their full date of birth.</p> <p>The ISPs refer to individuals as "feeders" and staff and residents use the terms "feeders," "eaters," and "normals" to identify the level of support people need during meal times.</p> <p>The Assessment and ICP/PCP for HCBS Final Rule Compliance that outlines restrictions is signed by the provider staff, not the individual or their designee.</p> <p>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 individually assessed need and documented in the person-centered service plan. CMS is aware that the state authorizes restrictive interventions in some waivers, but not all. The state should ensure that the use of chemical restraints in this setting aligns with the approved waiver(s) authorizing services received at this setting and follow safeguard procedures outlined in the state's waivers to detect unauthorized use of restraints.</p> <p>Golden Haven 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 removing residents' date of birth from information posted</p>
---------------------------	---	---

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
		outside room doors, complying with requirements associated with the use of restraints, and removing undignified terminology from ISPs.
441.301(c)(4)(iv)	The setting optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.	<p>The Admission Agreement states that individuals cannot bring food, beverage, alcohol or any item into or out of facility without the knowledge and consent of the Administrator or designee.</p> <p>Golden Haven must ensure their model of service delivery aligns with the regulatory criteria to facilitate independence in making life choices and amend practices to ensure individuals may bring items into or out of the setting.</p>
441.301(c)(4)(vi)(B)	Each individual has privacy in their sleeping or living unit.	<p>One of the ISPs noted a need for video surveillance, with the goal stating, in part, that the resident and/or family will be given the right to refuse camera use in personal care spaces such as bathrooms/shower rooms and private spaces/member rooms.</p> <p>Golden Haven must ensure that individuals are afforded privacy, including facilitating privacy in bathrooms. Remote monitoring, when allowed by a state in the delivery of HCBS, should only be used when necessary and ensure the privacy of all residents.</p> <p>When states allow remote monitoring in the delivery of HCBS, it must be included in their approved 1915(c) waiver and include safeguards to protect individuals' rights to privacy.</p>

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
441.301(c)(4)(vi)(B)(1)	Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.	<p>While the doors are lockable, the Administrator noted that residents must be assessed to be capable of managing a key. The setting's ALWP Addendum states that residents will be assessed upon admission and every six months; if they are assessed to be able to handle a key, "then an exception can be made to give the resident a choice to have a key or access to the secured perimeter gate and exterior entry door."</p> <p>Golden Haven 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 to have a key to their door must be based on an individually assessed need and documented in the person-centered service plan.</p>
441.301(c)(4)(vi)(B)(2)	Individuals sharing units have a choice of roommates in that setting.	<p>The ALWP Addendum states that residents can change roommates after admission. Residents do not have a choice of roommate prior to moving in.</p> <p>Golden Haven must revise its model of service delivery to ensure that individuals sharing units have a choice of roommates.</p>
441.301(c)(4)(vi)(B)(3)	Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.	<p>The Admission Agreement states, "The resident/responsible party will not alter or improve the suite without the prior written consent of Golden Haven." The Agreement does not provide any other information on a resident's ability to decorate or furnish the room. The site visit team was not invited by a resident to see their room to determine if this criterion was met.</p> <p>Golden Haven must ensure that individuals have the freedom to furnish and decorate their sleeping or living units.</p>

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
441.301(c)(4)(vi)(D)	Individuals are able to have visitors of their choosing at any time.	<p>The Admission Agreement and ALWP Addendum note that visitors are encouraged to come during the recommended hours (10 AM – 5 PM) and that overnight guests must give five-days’ notice to the setting management. The Administrator noted that visitors are strongly encouraged to visit with residents in the lobby area. The team noted that all ISP meetings between residents and their case managers took place in the lobby of the setting as documented in the ISP.</p> <p>Golden Haven should revise the visitor policy and practice to ensure that individuals can have visitors of their choice at any time.</p>
441.301(c)(4)(vi)(E)	The setting is physically accessible to the individual.	<p>Provider staff noted that individuals use the courtyards accessible from bedrooms, however, the ground is unlevel with many tripping hazards.</p> <p>Golden Haven must ensure that its setting is physically accessible to all individuals residing there, including the courtyards.</p>

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
441.301(c)(4)(vi)(F)	Any modification of the additional conditions, under §441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan.	<p>The setting has an Admission Agreement and ALWP Addendum that contain blanket restrictions and individuals have the ability to access certain things only if assessed to be safe to do so, rather than presuming competence and imposing restrictions only for those who have been appropriately assessed to need them. The Assessment & ICP/PCP for HCBS Final Rule Compliance is not signed by the individual or their representative but by the provider only.</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 Golden Haven must adhere to the plan.</p> <p>Golden Haven should ensure that any relevant modifications for a specific individual are incorporated into the plan, and that modifications to the settings criteria are limited only to a specific assessed need as opposed to a blanket modification.</p>

Additional Provision	Language	Violation Finding Based on Site Visit
State Medicaid Director Letter #19-001 ²	Description of how staff are trained and monitored on their understanding of the settings criteria and the role of person-centered planning, consistent with state standards as described in the waiver or in community training policies and procedures established by the state.	<p>The setting uses their “Assessment & ICP/PCP for HCBS Final Rule Compliance” document for staff training on HCBS requirements. It covers many of the areas but is written from a blanket restriction/modification perspective, as opposed to a person-centered service model.</p> <p>Golden Haven should ensure all employees have consistent, accurate, and reinforced training on the HCBS settings regulatory criteria. In addition, this training should be incorporated into the daily activities and operations of the setting.</p>

City Creek Assisted Living (formerly Saint Francis Senior Residence), RCFE – Visit June 5, 2023

Facility Description:

This setting is an assisted living setting with 121 beds and 61 residents who receive Medicaid HCBS waiver services. The setting is located next door to City Creek Post Acute (a nursing facility), and is one block from a public library and a community center. The building is shaped like a rectangle with two interior courtyards and is one level. The courtyards have entrances from the hallways and the activity room which is centrally located in the building. At the front of the building is the entrance that opens onto the lobby with a conference room to the right, the main reception desk on the right, the dining room on the left, and then one of the two courtyards directly ahead. The lobby has a large screen television mounted on the wall on the left side that shows the activities scheduled for the day and the menus for the day’s meals. There is a phone in the lobby on the right next to the main reception desk for residents to make and receive calls. The setting recently added a large room off the lobby to provide physical and occupational therapy. The dining room has several 4-top tables to accommodate the residents and has two vending machines for residents to purchase snacks and/or drinks at any time. From the lobby the hallways go left and right to access the residents’ rooms, the activity room, and the other courtyard. The setting has private and semi-private rooms; most are semi-private (double occupancy) rooms. Many, but not all, of the bedroom doors were open and the team observed folding screens between the beds to provide privacy; these are provided at the request of the residents. The rooms that face the interior courtyards can access the courtyards through sliding glass doors in the rooms. All rooms have full bathrooms inside with a push button locking mechanism in the levered door handle. The setting has activities on-site. The setting has an active Resident Council.

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

Site Visit Review Description:

The site visit team reviewed the ISP, admission agreement, and staff training documents. After reviewing the documentation, the team received a tour of the setting from the Administrator and the lead nurse. At the end of the tour, a team member spoke with some residents in the dining room as they were waiting for lunch.

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 activity calendar and the residents’ ISPs did not indicate opportunities for access to the community. The staff noted that residents’ families/responsible parties are the primary way residents can access the community. Staff said there is only one van for the setting; it holds 8-10 people. Staff noted that some residents can go to the public library on their own, but many need assistance. Staff said that the Resident Council has requested more opportunities to go to the library; it was not clear if the community center was included in that request. Staff noted that no residents have asked about working or volunteering but that staff would help residents should they indicate those interests.</p> <p>There is a “bank manager” onsite for residents who choose to keep cash with the setting, however it was only open limited hours during weekdays.</p> <p>City Creek Assisted Living 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. City Creek Assisted Living should develop policies, practices and resources to ensure that individuals have full access to the greater community. Additionally, the setting should ensure that individuals are informed of their choices for competitive, integrated employment. City Creek Assisted Living should also ensure that individuals have access to and can control their financial resources.</p>

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
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 identify other setting options, including non-disability specific options.</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)	The setting ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.	<p>During the tour, the team saw a large calendar on the wall with medical information on it including information about resident instrumental activities of daily living and activities of daily living.</p> <p>A phone is available in the lobby for residents to use to make personal calls; however, there is no private space for individuals to talk on the communal phone.</p> <p>City Creek Assisted Living must modify their model of service delivery to protect the privacy of residents' health information and to provide residents with privacy in phone conversations.</p>
441.301(c)(4)(vi)(B)(1)	Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.	<p>Per staff discussion, not all residents have room doors that lock; residents must request to have a locking door. The Administrator noted that renovations to the setting were starting in two weeks and they included new doors on all residents' rooms that have locks.</p> <p>City Creek Assisted Living must ensure that units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.</p>

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
441.301(c)(4)(vi)(B)(2)	Individuals sharing units have a choice of roommates in that setting.	<p>Staff indicated that residents are paired with roommates based on staff knowledge of their personalities, assistance needs, behaviors and preferences. Staff noted there is a new procedure for room and roommate changes but it appears that currently residents do not choose their roommates upon move in.</p> <p>City Creek Assisted Living must revise its model of service delivery to ensure that individuals sharing units have a choice of roommates.</p>
441.301(c)(4)(vi)(C)	Individuals have the freedom to control their own schedules and activities, and have access to food at any time.	<p>Residents interviewed indicated that it is hard to get food outside of mealtimes other than from the vending machine. Residents additionally noted that while the large television in the lobby indicates that meals are not scheduled, they actually are. The alternative meal offered to residents is a sandwich.</p> <p>While not a regulatory violation, City Creek Assisted Living should revise their current practice to ensure that residents have options in meal choices and flexibility in mealtimes, with access to food at any time.</p>
441.301(c)(4)(vi)(D)	Individuals are able to have visitors of their choosing at any time.	<p>The team reviewed several signed admission agreements. Although the provider indicated there are no longer visiting hours, some of the agreements included a family visiting policy that requires prior facility agreement for visits before 8 AM or after 9 PM. One of the agreements was dated 2023.</p> <p>City Creek Assisted Living should update individuals' admission agreements with the current visiting hours policy to ensure individuals know they can have visitors of their choice at any time.</p>

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
441.301(c)(4)(vi)(E)	The setting is physically accessible to the individual.	<p>The front door to the setting did not have an accessible door entry button (for wheelchair access). The team observed several residents in wheelchairs as staff brought them to the dining room for lunch. House rules prohibit electric wheelchairs/scooters; staff noted they can make exceptions. The team also saw two residents using electric wheelchairs in the setting, one of whom had to have someone hold the front door open for them as they left the setting for an appointment.</p> <p>City Creek Assisted Living must ensure that its setting is physically accessible to all individuals residing there.</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>House rules in the admission agreement prohibit alcohol in residents' rooms unless a resident has a physician's order. The site visit team observed several bottles of wine in the Medication Room; staff stated one resident's family member sends the resident wine but the resident must drink it in the Medication Room. Staff stated it is treated like medication.</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 City Creek Assisted Living must adhere to the plan.</p> <p>City Creek Assisted Living should ensure that any relevant modifications for a specific individual are incorporated into the plan, and that modifications to the settings criteria are limited only to a specific assessed need as opposed to a blanket modification.</p>

Additional Provision	Language	Violation Finding Based on Site Visit
State Medicaid Director Letter #19-001 ³	Description of how staff are trained and monitored on their understanding of the settings criteria and the role of person-centered planning, consistent with state standards as described in the waiver or in community training policies and procedures established by the state.	Review of the initial and ongoing training topics did not show training areas related to HCBS settings criteria. City Creek Assisted Living should ensure all employees have consistent and reinforced training on the HCBS settings regulatory criteria. In addition, this training should be incorporated into the daily activities and operations of the setting.

Fair Oaks Estates, RCFE – Visit June 6, 2023

Facility Description:

This setting is an assisted living facility with a memory care wing with delayed egress. It has a total of 106 residents, 52 of whom receive Medicaid HCBS waiver services. The memory care wing has 10 rooms that are semi-private with 20 residents. The setting is located in a residential area. It is a one-story building in the shape of a square with an “L” shaped wing in the back left corner for the memory care unit. The setting has an interior courtyard that is accessible by double doors from the hallways. The memory care unit has its own enclosed outside patio area accessible from the unit’s common area. Upon entering the front doors of the assisted living, there is a lobby with chairs for seating. To the left of the lobby is the dining area that has 2-top, 3-top and 4-top tables for seating. There is also a large television in the lobby that shows the daily activities. On the right side of the lobby is the reception desk, and straight ahead is one access point to the interior courtyard. The courtyard has benches and other seating and space for activities and events. From the lobby, the hallway goes left and right to access the residents’ rooms. The hallway to the right had a display called the “Veteran’s Wall of Honor” with pictures of residents and information about their service in the military. In the back part of the building is a nook for a resident library; across the hall is the activity room that contains seating, exercise weights, a television, and tables for activities. The setting has both private and semi-private rooms, with the owner noting that most rooms are semi-private. The resident rooms have a keyed lock on the door. The resident rooms have full bathrooms inside the rooms. Some, but not all, the bedrooms doors were open. Residents can use their own cell phones and there is a phone near the lobby area that residents can use. The setting has planned activities on-site. Individuals can smoke cigarettes and have space outside to do so. The dining room area is roped off between meals; the owner said it is to allow staff to clean and reset the dining room for the next meal and prevents people from coming through and touching the place settings on the tables.

The memory care is locked with delayed egress and alarm. There is a common area with a television, seating and dining area. Off the common area is an outside patio area for the memory care residents, including a designated smoking area.

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

Site Visit Review Description:

The setting administrator provided the team with the ISP, the admission agreement, and staff training documents. After the team finished the documentation review, they were given a tour of the setting by the owner. The team spoke with three residents.

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>The activity calendars and resident service plans do not indicate options to support full access the community. The monthly calendar posted on the setting’s website lists one scheduled outing per week; for the month of June, two of the outings were “Scenic Drives.”</p> <p>Fair Oaks Estates 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. Fair Oaks Estates should develop policies, practices and resources to ensure that individuals have full access to the greater community.</p>
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 identify other setting options, including non-disability specific options.</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>

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
441.301(c)(4)(iv)	The setting optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.	<p>The memory care residents seemed restricted to their unit based on conversation with the owner and observation. The owner noted that the memory care residents will occasionally do activities with the assisted living residents as long as they would not be disruptive. The memory care residents also had their own dining area and their own enclosed outdoor patio area. The residents there did not appear to leave that wing of the setting.</p> <p>Fair Oaks Estates must ensure their model of service delivery aligns with the regulatory criteria to facilitate independence and autonomy in making life choices about daily activities, their physical environment, and with whom to interact. Understanding the intensive support needs of many individuals with memory impairments, Fair Oaks Estates should consult CMS/ACL guidance released in 2016 on ways to implement person-centered principles for individuals with dementia.⁴</p>

⁴ [faqs 12-14-16 \(medicaid.gov\)](https://www.medicaid.gov/faq/12-14-16)

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
441.301(c)(4)(vi)(A)	The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity. For settings in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.	<p>The admission agreement allows for a room change/eviction with 24-hour notice for safety or care reasons, however, the care reasons are not defined.</p> <p>Fair Oaks Estates should revise the existing admission agreement to ensure it is a legally enforceable agreement that provides comparable protections against potential eviction as those provided under landlord/tenant law.</p>
441.301(c)(4)(vi)(B)(1)	Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.	<p>The resident rooms all had keyed locks on the doors but it was not clear if residents had keys to their rooms.</p> <p>Fair Oaks Estates must ensure that units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.</p>
441.301(c)(4)(vi)(B)(2)	Individuals sharing units have a choice of roommates in that setting.	<p>Staff indicated that residents are paired with roommates by staff based a variety of criteria. Residents do not choose their roommates upon move in.</p> <p>Fair Oaks Estates must revise its model of service delivery to ensure that individuals sharing units have a choice of roommates.</p>

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
441.301(c)(4)(vi)(D)	Individuals are able to have visitors of their choosing at any time.	<p>The admission agreement encourages visiting hours between 8 AM-9 PM, however, it also said visitors must leave by the time the alarm is turned on at 4:30 PM. The team also observed visiting hours posted at the entry door to the setting.</p> <p>Fair Oaks Estates should revise the visitor policy and practice to ensure that individuals can have visitors of their choice at any time.</p>
441.301(c)(4)(vi)(E)	The setting is physically accessible to the individual.	<p>The doors to the interior courtyard did not have an accessible door entry button (for wheelchair access). The team observed several residents who used wheelchairs or four-wheeled walkers for mobility; opening the doors without the accessible entry would be challenging.</p> <p>Fair Oaks Estates must ensure that its setting is physically accessible to all individuals residing there.</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>Some residents' plans contained modifications that were not well documented with supporting assessments per regulatory criteria.</p> <p>Fair Oaks Estates should ensure that any relevant modifications for a specific individual are incorporated into the plan, and that modifications to the settings criteria are limited only to a specific assessed need as opposed to a blanket modification.</p>

Additional Provision	Language	Violation Finding Based on Site Visit
State Medicaid Director Letter #19-001 ⁵	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>Review of the initial and ongoing training topics did not show training areas related to HCBS settings criteria, though the owner of the setting seemed familiar with the concepts.</p> <p>Fair Oaks Estates should ensure all employees have consistent and reinforced training on the HCBS settings regulatory criteria. In addition, this training should be incorporated into the daily activities and operations of the setting.</p>

Gramercy Court, RCFE – Visit June 5, 2023

Facility Description:

This setting is an assisted living setting with a memory care unit that has 72 residents, 52 of whom receive Medicaid HCBS waiver services. Both the assisted living and the memory care are licensed as RCFEs. There is also a nursing facility as part of the overall campus. The setting is located in a residential area at the end of a cul-de-sac. The assisted living portion is two “houses” (term used by Administrator) that are connected on one side of the cul-de-sac and the memory care portion is two “houses” that are connected on the other side of the cul-de-sac, facing the assisted living side. At the back of the cul-de-sac are the buildings that house the nursing facility. All buildings are one-story. Each “house” has a dining area, a common living area with seating, a television, games, puzzles and books available for residents to use, and access to an outside patio area. The patio area has seating and paved walking paths that connect the houses. There are garden boxes outside that residents tend. The kitchen for the nursing facility prepares all the food for all parts of the campus (assisted living, memory care, and nursing facility), but it is delivered and served out of a smaller kitchen in each house that is next to the dining area. There are also full-size refrigerators in the individual kitchens where snacks and other food is kept for residents. The setting has private and semi-private rooms. The Administrator noted all rooms come with a mini-refrigerator and microwave for the residents’ use and residents can keep food and snacks as they desire in their rooms. Each resident room also has a full-size bathroom. The resident rooms come with a push-button lock and levered door handle so it is lockable only from the inside by the resident(s). The memory care “house” has delayed egress. The setting has planned activities on-site. The setting has an active Resident Council.

Site Visit Review Description:

The site visit team was required to sign in at the nursing facility building of the campus. The team met the setting Administrator and went to the memory care house to review the ISPs, the Admission Agreement, the resident handbook, and staff training documents. The Administrator answered the team’s questions as they reviewed documentation. After reviewing the documentation, the team received a tour of the setting. After the tour the team split up and spoke with two residents.

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

Findings of Site Visit:

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
441.301(c)(4)(i)	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>While the setting schedules one outing per week as noted on the activity calendar and verified through resident interview, it is not clear if residents have unscheduled opportunities to access the community on their own.</p> <p>The resident handbook requests that individuals ask family to provide an escort for appointments.</p> <p>Gramercy Court 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. Gramercy Court should develop policies, practices and resources to ensure that individuals have full access to the greater community.</p>
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 service plans did not identify other setting options, including non-disability specific options.</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>

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
441.301(c)(4)(v)	The setting facilitates individual choice regarding services and supports and who provides them.	<p>The Resident and Care Agreement states that transportation will be available to the nearest appropriate health facilities for medical and dental appointments, social service agencies, shopping and recreational facilities, and religious activities as outlined in the resident handbook. However, the resident handbook does not specify it must be the “nearest appropriate” facility or location when providing or scheduling transportation.</p> <p>Gramercy Court must ensure their model of service delivery aligns with the regulatory criteria 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>The Resident and Care Agreement includes a clause that allows individuals to have their tenancy terminated if their condition changes and they are considered a wandering risk. Not only is this provision unclear given that the setting provides memory care services in a designated part of the campus, it is also unclear how this provision generally complies with the regulatory requirement.</p> <p>Gramercy Court should revise the existing admission agreement to ensure it is a legally enforceable agreement that provides comparable protections against eviction as those provided under landlord/tenant law.</p>

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
441.301(c)(4)(vi)(B)(1)	Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.	<p>Resident rooms had a push button locking mechanism in the levered handle for the door. Residents are only able to lock the door while inside their room.</p> <p>Gramercy Court must ensure that units have entrance doors lockable by the individual, with only appropriate staff having keys to doors. Doors should be lockable from the outside by the individual.</p>
441.301(c)(4)(vi)(C)	Individuals have the freedom to control their own schedules and activities, and have access to food at any time.	<p>The team saw modifications in service plans that prohibited access to food at any time due to sharp knives in the kitchen. The justification to restrict access to food did not appear to relate to the risk noted.</p> <p>Gramercy Court 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 mealtimes.</p>
441.301(c)(4)(vi)(D)	Individuals are able to have visitors of their choosing at any time.	<p>Staff report that the assisted living and memory care do not have restrictions on visitors, but all visitors have to check in at the skilled nursing facility lobby which has visiting hours posted at the door as you enter. This could have the effect of limiting visitors.</p> <p>The Residence and Care Agreement states that guests are to abide by the visitor and guest policies, including reasonable limitations on the length of stay and frequency of visits, however, neither of those terms are defined.</p> <p>Gramercy Court should provide training and information to staff and residents to clarify the practice around individuals' ability to have visitors at any time. Additionally, Gramercy Court should define "reasonable limitations" and "frequency of visits" in the Residence and Care Agreement to establish clear rules that also comport with the settings regulation.</p>

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
441.301(c)(4)(vi)(F)	Any modification of the additional conditions, under §441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan.	<p>Some residents' service plans contained modifications that were not well documented with supporting assessments per regulatory criteria.</p> <p>Alcohol is only permitted with a physician's order.</p> <p>Grammercy Court should ensure that any relevant modifications for a specific individual are incorporated into the plan, and that modifications to the settings criteria are limited only to a specific assessed need as opposed to a blanket modification.</p>

Additional Provision	Language	Violation Finding Based on Site Visit
State Medicaid Director Letter #19-001 ⁶	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>Review of the initial and ongoing training topics did not show training areas related to the HCBS settings criteria.</p> <p>Grammercy Court should ensure all employees have consistent and reinforced training on the HCBS settings regulatory criteria. In addition, this training should be incorporated into the daily activities and operations of the setting.</p>

Mountain Manor Senior Residence, RCFE – Visit June 6, 2023

Facility Description:

This is an assisted living facility co-located with a nursing facility. It is located in a mixed residential/business area on a main road. There is a bus stop in front of the setting. The assisted living setting is licensed for 33 residents and currently has 9 residents, 4 of whom receive Medicaid HCBS waiver services. The setting is one story and in the shape of a square, with the assisted living in two parts of the square and the nursing facility in the other two parts. The setting has an interior courtyard in the middle; resident rooms that face the courtyard can access it through sliding glass doors in their rooms. The rooms are a mix of private and semi-private rooms and appear to come with a bed, a nightstand, and a bureau for clothing/storage. All rooms have a half-bathroom in them; there are no locks on the bathroom doors unless residents request it. There is one shower room with one shower for residents to use. The shower room has a keypad to lock it. The dining room is located at the end of one of the hallways for the setting and had various sized tables and vending machines for the residents to purchase snacks. Some residents choose to order

⁶ [Heightened Scrutiny SMD-SMDL Final \(medicaid.gov\); see question 10](#)

food from the local grocery store, through delivery services, or some residents' families bring them food. A menu was posted with alternative options noted. Due to the low census staff do not have to schedule residents' showers at certain times; they can access it when desired. Some residents have their own cars and use them. Individuals have access to visitors. Individuals control their schedules.

Site Visit Review Description:

The Director of Assisted Living provided the team with residents' ISPs, the admission agreement, and staff training documents. The training documents provided were the remediation work plans developed by the setting to address the heightened scrutiny assessment findings by the state. The Director stated they use those to train staff on HCBS requirements. After review of the documentation, the Executive Director and Director provided a tour of the setting. After the tour, the team split up and interviewed two residents.

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>Review of one resident’s ISP indicated the desire to return to their former line of work. The goal noted in the plan for this resident was to watch television shows related to that former line of work.</p> <p>Setting policies state that the setting provides one free medical-related transportation per month within a 10-mile radius; additional transportation costs \$50 and individuals must give one month’s notice. Staff said they do not follow this policy and they transport individuals frequently based on individual requests.</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 informed of their choices for competitive, integrated employment.</p> <p>Mountain Manor 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. Mountain Manor should develop policies, practices and resources to ensure that individuals have full access to the greater community</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 service plans did not identify other setting options, including non-disability specific options.</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>

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
441.301(c)(4)(iii)	The setting ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.	<p>The bathrooms in the rooms do not have locks on the doors. Residents must request a lock. This presents a privacy issue as many of the rooms are shared rooms.</p> <p>Mountain Manor Senior Residence should amend their practices to ensure an individual's right to privacy such that individuals have privacy when using the bathroom.</p>
441.301(c)(4)(iv)	The setting optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.	<p>There was a seating assignment list posted next to the dining room. Staff and residents both indicated that individuals sit where they want to sit.</p> <p>Mountain Manor Senior Residence must ensure their model of service delivery aligns with the regulatory criteria to support participants' autonomy in making choices about daily activities. Specifically, Mountain Manor Senior Residence should remove signage that provides contradictory information that does not permit individuals to choose where to eat and with whom, despite the setting's practice that does allow choice.</p>
441.301(c)(4)(vi)(B)(1)	Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.	<p>Staff stated there are no locks on the room doors; residents must request a lock.</p> <p>Mountain Manor Senior Residence must ensure that units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.</p>
441.301(c)(4)(vi)(B)(2)	Individuals sharing units have a choice of roommates in that setting.	<p>Setting staff indicated that roommates are paired initially by staff, but residents do have the ability to request roommate changes. Residents do not choose their roommates upon move in.</p> <p>Mountain Manor Senior Residence must revise its model of service delivery to ensure that individuals sharing units have a choice of roommates.</p>

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
441.301(c)(4)(vi)(F)	Any modification of the additional conditions, under §441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan.	<p>Per conversation with staff, alcohol is prohibited unless a resident has a physician’s order. Staff indicated it is treated like medication and dispensed by staff.</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 Mountain Manor Senior Residence must adhere to the plan.</p> <p>Mountain Manor Senior Residence should ensure that any relevant modifications for a specific individual are incorporated into the plan, and that modifications to the settings criteria are limited only to a specific assessed need as opposed to a blanket modification.</p>

Additional Provision	Language	Violation Finding Based on Site Visit
State Medicaid Director Letter #19-001 ⁷	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 training documentation provided by the setting was a remediation work plan to address heightened scrutiny assessment findings; it did not address all of the HCBS settings criteria.</p> <p>Mountain Manor Senior Residence should ensure all employees have consistent and reinforced training on the HCBS settings regulatory criteria. In addition, this training should be incorporated into the daily activities and operations of the setting.</p>

⁷ [Heightened Scrutiny SMD-SMDL Final \(medicaid.gov\); see question 10](#)

Napa Valley PSI, Day Work Activity Program – Visit June 7, 2023

Facility Description:

This setting is a building located on the edge of the Napa State Hospital campus. The building was leased from the hospital almost 50 years ago and the lease expires in 2024. The setting originally had several buildings in use but condensed its operations to one building. The setting has staff offices, a conference room, a small space for work, and a large room that is currently used for breaks. The provider in this setting provides three services: work services (Work Activity Program), Integrated Services (Community Based Day), and Placement Services (Supported Employment). Only the Work Activity Program services are delivered on site. The provider serves 33 total people, 22 of whom receive Medicaid HCBS waiver services. The Work Activity Program service is phasing out at the same time the lease expires. The provider has one 14(c) contract left that authorizes payment at below minimum wage, and the provider has spoken several times with this employer to directly hire participants, but the employer has declined to do so. The provider has other contracts with employers that are done in the community that pay at least minimum wage. The provider developed a relationship with the local college during the pandemic. The college welcomes participants to use their workout facility and college staff created an accessible workout routine for those interested. Participants can also take classes there, and the provider is contracted with the college as one of the provider's litter abatement customers. During the pandemic, program participants learned how to use technology and the provider now provides various Zoom classes on different skills (whether life skills or hobbies such as sketching) and many participants lead those classes, including managing the technology. As pandemic restrictions continue to ease for the area, the provider noted some of the local non-profit organizations are ready to welcome back their volunteers. These organizations include Meals on Wheels and the local humane society. Individuals are involved in their service planning and their person-centered service plans reflect goals that are updated based on individual needs and preferences. Individuals are supported to use public transportation to access work and leisure activities. Napa Valley PSI provides HCBS setting rule specific training to all of its employees. Staff training topics included person-centered approaches, thinking and planning, building friendships and community, valued social roles, diversity, and employment.

Site Visit Review Description:

The team met with the Director and a consultant who explained the history of the setting, the current operations, and future plans to move to a different location and fully move site-based services to the community. The team reviewed the service plans (Individual Program Plans, IPP, from the Regional Center case management and the Individual Service Plans, ISPs, from the provider) and staff training documents. After the documentation review, the team received a tour of the setting. The team spoke with three individuals who receive services from Napa Valley PSI. Overall, the site visit team found this non-residential setting to be compliant with the regulatory criteria.

The team did not note any findings in this setting.

California Site Visit Team – Southern Route:

CMS Representative: Anthony Borges Nazari

ACL Representative: Erica McFadden

New Editions: Vicky Wheeler, Amy Coey

California: Joseph Billingsley, Andrew Chen, Douglas Bailey, Suzy Requarth, Susan Crow, Aaron Christian

Introduction:

The site visit team visited Beverly Hills Loving Care, Hamilton House, People’s Care Ferrero Home, People’s Care Covina Home, Holy Hill Home Care, and Country Villa Terrace Assisted Living Center. Three settings supported individuals with intellectual disabilities/developmental disabilities (ID/DD) and three settings supported older adults, some with dementia. All settings were in the greater Los Angeles area with the exception of Holy Hill Home Care, which was located in a small rural town about an hour east of Los Angeles. The settings that were selected for a site visit were identified through the state’s heightened scrutiny process, with the exception of Hamilton House. Although Hamilton House was not identified by the state for heightened scrutiny, the stakeholders of California identified this as a setting that would benefit from a visit from the site visit team as they indicated it has qualities that isolate individuals from the greater community.

Promising Practices:

Throughout the course of the site visit in the Los Angeles area, the team noted caring, knowledgeable staff who have been employed for long periods of time providing services in the settings that were visited.

Summary of Findings:

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

Findings of Site Visit:

Regulation Citation	Regulation Language	Setting Name
441.301(c)(4)(i)	The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.	People’s Care Ferrero, People’s Care Covina, Country Villa Terrace Assisted Living Center, Beverly Hills Loving Care, Holy Hill Home Care

Regulation Citation	Regulation Language	Setting Name
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.	People's Care Ferrero, People's Care Covina, Country Villa Terrace Assisted Living Center, Beverly Hills Loving Care, Holy Hill Home Care, Hamilton House
441.301(c)(4)(iii)	The setting ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.	People's Care Ferrero, Country Villa Terrace Assisted Living Center
441.301(c)(4)(iv)	The setting optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.	People's Care Ferrero, People's Care Covina, Country Villa Terrace Assisted Living Center, Holy Hill Home Care
441.301(c)(4)(v)	The setting facilitates individual choice regarding services and supports and who provides them.	People's Care Covina, Beverly Hills Loving Care
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.	People's Care Ferrero, People's Care Covina, Country Villa Terrace Assisted Living Center, Holy Hill Home Care, Hamilton House
441.301(c)(4)(vi)(B)	Each individual has privacy in their sleeping or living unit	Country Villa Terrace Assisted Living Center, Holy Hill

Regulation Citation	Regulation Language	Setting Name
441.301(c)(4)(vi)(B)(1)	Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.	People’s Care Ferrero, People’s Care Covina, Holy Hill
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.	People’s Care Ferrero, Country Villa Terrace Assisted Living Center
441.301(c)(4)(vi)(D)	Individuals are able to have visitors of their choosing at any time	People’s Care Ferrero, People’s Care Covina, Country Villa Terrace Assisted Living Center, Beverly Hills Loving Care, Holy Hill
441.301(c)(4)(vi)(E)	The setting is physically accessible to the individual.	Country Villa Terrace Assisted Living Center, Beverly Hills Loving Care
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.	People’s Care Ferrero, People’s Care Covina, Country Villa Terrace Assisted Living Center, Beverly Hills Loving Care, Holy Hill, Hamilton House

Additional Provision	Language	Setting Name
State Medicaid Director Letter #19-001 ⁸	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.	People’s Care Ferrero, People’s Care Covina, Country Villa Terrace Assisted Living Center, Beverly Hills Loving Care, Holy Hill, Hamilton House

People’s Care Ferrero, Specialized Residential Facility (SRF) - Visit Tuesday, June 6, 2023

Facility Description:

The state defines this setting as “Secured Perimeter and Delayed Egress.” There are two gates around the setting. The first closest to the home is delayed egress, meaning if the resident attempted to open the gate by pushing on it, the alarm would notify the staff and then would release/open after 30 seconds. The second gate/fence around the property has a microphone where visitors must be “buzzed” in. To get out, there is a key pad with code that must be entered. Staff noted that if pushed very hard, which is not likely to be done by most people, it will open. The Admission

⁸ [Heightened Scrutiny SMD-SMDL Final \(medicaid.gov\); see question 10](#)

Agreement Addendum states the facility is for “Delayed Egress and Secured Perimeters.” The Individual Program Plan (IPP) notes that persons placed in this type of setting must be done so through court order or by signing consent in the Admission Agreement. The house is large and open with two living rooms, a large kitchen and dining room, back patio, and laundry room. Exit doors as well as bedroom doors have alarms that note to staff when they are opened. The setting is structured for four individuals, but there are currently only three male residents, all receiving Medicaid HCBS. There are four bedrooms, all single occupancy, and two bathrooms. There are four staff on duty and staff accompany the residents if they want to leave the facility. One room is deemed a crisis room and when a resident is in the crisis room, they are assigned two staff members. The residents are all on behavioral treatment plans. Staff are all trained in physical restraint procedures. The residents in the house participate in a monthly resident meeting. None of the residents are under a conservatorship and none of the residents have court orders. Each resident has their own activity calendar and there are facility vehicles. The residents have access to the kitchen and food at any time. The setting also has a nutritionist to assist with meal planning. The provider created a staff training on the HCBS rules and presented the training in November 2022 and March 2023. Although the team did not enter any bedrooms, throughout the tour of the home it was noted that bedroom doors were open. Each room the team was able to see appeared to have personal effects and individualized decorations. All residents have behavior support plans that include constant supervision and redirection from staff. Administrative staff noted cooking all meals, with residents assisting on occasion with meal preparation and with menu development based on residents likes/dislikes. Snacks are also available at all times. The kitchen pantry had food/snacks available. All residents do their own laundry.

Site Visit Review Description:

The site visit team was provided an area in the garage/office to review ISPs and lease/residency agreements. The team interviewed administrative staff and were provided a tour of the setting. During the tour, the site visit staff had an opportunity to talk with direct support staff. Although residents were home during the site visit, they became agitated and were redirected to activities such as going for a walk off the property or going for a ride in a car. The site visit team did not interview any individuals residing in the setting.

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 residents at this home exhibit physically aggressive behaviors and activities outside the home are contingent on the person’s behavior; activities may not happen if the person cannot manage their behavior and it interferes with activity participation. The outside perimeter of this setting is locked, and individuals cannot leave without a 1:1 support. The setting manages community access by having planned outings based on individual interests. During the visit, one resident was agitated and wanted to go for a ride so the staff took him. However, it is stated in the care plan document that the resident should be redirected first before accompanying him if he wanted to leave the facility. Although each resident has a behavior support plan describing interventions, there is nothing related to community integration or support for integration that was noted or addressed in the ISPs.</p> <p>People’s Care Ferrero 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. People’s Care Ferrero should develop policies, practices and resources to ensure that individuals have full access to the greater community. CMS acknowledges the complexity in facilitating community integration for individuals requiring extensive behavioral supports. The above guidance is provided to encourage the setting to continue the use of person-centered planning to achieve community integration based on individual needs and preferences.</p>

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
441.301(c)(4)(ii)	<p>The setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board.</p>	<p>There is no evidence in the ISP that the setting was selected by the individual with an option of a non-disability specific setting. In one situation in particular, staff noted there was nowhere for a resident to go besides this setting. The goal, as noted by the provider, is to move these residents to less restrictive settings and indicated instances when individuals were able to live in less restrictive settings, they were moved to other People's Care 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. 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)	<p>The setting ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.</p>	<p>There were no locks on the bedroom doors and no evidence that individuals have keys to entrance doors of the home. There were alarms on all doors including bedroom doors. Staff noted the alarms were placed so that staff know where residents are at all times.</p> <p>People's Care Ferrero 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. Any modifications for an individual resident must be based on an assessed need and documented in the person-centered service plan.</p>

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
441.301(c)(4)(iv)	The setting optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.	<p>There are house rules that restrict individual choice. Staff noted the rules were not enforced. The house rules state residents have to be properly attired and dictates what should be worn, there should be no alcohol or drugs, and visits should be during reasonable times of 3 PM to 8 PM during the week and 10 AM to 9 PM on weekends. Arrangements for visitors can be made outside of those times. House rules also indicate that phone calls must not interfere with normal business operations.</p> <p>People’s Care Ferrero must ensure their model of service delivery aligns with the regulatory criteria to facilitate independence and community integration, and amend practices to ensure that schedules are not regimented and that individuals have the opportunity to set their own schedules and participate in activities of their choosing.</p>
441.301(c)(4)(vi)(A)	The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity. For settings in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.	<p>The Residency Agreement is between the setting owner/operator, the regional center, and the individual. It does not include protections for eviction, appeal rights, or timelines for giving a resident notice to move or for eviction.</p> <p>People’s Care Ferrero must ensure that a lease, residency or other written agreement is in place for each individual and that the agreement provides protections from evictions and appeals processes that are comparable to those in the jurisdiction’s landlord tenant laws.</p>

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
441.301(c)(4)(vi)(B)(1)	Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.	<p>There are no locks on the bedroom doors. Staff have keys to entrance doors of the home.</p> <p>People’s Care Ferrero 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>
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 are redirected from leaving if they decide they want to leave at a time that is different than what is on the calendar, although the staff said they were free to change what was on the calendar.</p> <p>People’s Care Ferrero should revise their method of service delivery to ensure that individuals can control their schedules and activities, unless there is a documented reason, described in an individual’s person-centered service plan, for any restrictions.</p>
441.301(c)(4)(vi)(D)	Individuals are able to have visitors of their choosing at any time.	<p>House rules state that visitors are allowed during reasonable hours and they ask them to visit from 3 PM to 8 PM if possible, Monday-Friday and 10 AM to 9 PM on the weekends.</p> <p>People’s Care Ferrero should revise the visitor policy and practice to ensure that individuals can have visitors of their choice at any time.</p>

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
441.301(c)(4)(vi)(F)	Any modification of the additional conditions, under §441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan.	<p>Although each resident has a behavior support plan, modifications to the additional conditions are not addressed in the ISP.</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 People’s Care Ferrero must adhere to the plan.</p> <p>People’s Care Ferrero should ensure that any relevant modifications for a specific individual are incorporated into the plan, and that modifications to the settings criteria are limited only to a specific assessed need as opposed to a blanket modification.</p>

Additional Provision	Language	Violation Finding Based on Site Visit
State Medicaid Director Letter #19-001 ⁹	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 People’s Care Ferrero trainer stated that they conducted trainings for all of their facilities in the fall and spring. However, based on the findings of the site visit, HCBS settings final rule criteria are not being implemented in the setting.</p> <p>People’s Care Ferrero should ensure all employees have consistent and reinforced training on the HCBS settings regulatory criteria. In addition, this training should be incorporated into the daily activities and operations of the setting.</p>

⁹ [Heightened Scrutiny SMD-SMDL Final \(medicaid.gov\); see question 10](#)

People's Care Covina, Specialized Residential Facility (SRF) – Visit Tuesday, June 6, 2023

Facility Description:

The state defines this setting as “Secured Perimeter and Delayed Egress.” There are two gates around the setting. The first closest to the home is delayed egress, meaning if the resident attempted to open the gate by pushing on it, the alarm would notify the staff and then would release/open after 30 seconds. The second gate/fence around the property has a microphone where visitors must be “buzzed” in. To get out, there is a key pad with code that must be entered. The Admission Agreement Addendum states the facility is for “Delayed Egress and Secured Perimeters.” IPPs note that persons placed in this type of setting must be done so through court order or by signing consent in the Admission Agreement. The house is large and open with two living rooms, a large kitchen and dining room, back patio, and laundry room. Residents of this setting have all had court involvement. All entrance/exit doors to the home are delayed egress and require a code. Only staff have the code; no residents have the code, including the code for the door at the rear of the house that goes to a patio and yard. There are four adult male residents and all receive Medicaid HCBS. There are four single occupancy bedrooms and two bathrooms. There are three staff on shift during the day and two overnight. This setting has a thorough HCBS training that was provided to staff in November 2022 and March 2023.

Site Visit Review Description:

The site visit team arrived prior to the residents arriving home from day programming. Provider administration staff, along with two direct support staff, met with the team in the dining room while ISPs were reviewed. Staff noted the home is staffed 24/7 and typically has three staff during awake hours and two staff overnight. One resident returned from day programming and was interviewed by site visit team members. The resident also provided a tour of the setting as well as their bedroom.

Findings of Site Visit:

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
441.301(c)(4)(i)	<p>The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.</p>	<p>The setting is locked and residents must be accompanied by staff in order to be involved in community activities. Personal resources are managed by the provider. Residents attend a day program. There was no noted option for work. Information related to these restrictions is not included in the ISPs.</p> <p>One of the residents interviewed indicated they wanted to make money. However, their ISP was not focused on obtaining employment or integrated work as an option; rather they worked in the provider owned 14c program doing janitorial work. This person also indicated a desire to go out more and see friends.</p> <p>People’s Care Covina 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. People’s Care Covina should develop policies, practices and resources to ensure that individuals have full access to the greater community. 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>

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
441.301(c)(4)(ii)	<p>The setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board.</p>	<p>There is no evidence this setting was selected by the individual, including an option for a non-disability specific setting. Choice of setting is not identified in the ISP. A resident who was interviewed said they want to move due to other residents' behaviors and their ISP indicated they wanted to move. However, they have been waiting a while to move with no scheduled date to move or options offered for a different setting.</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. 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>

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
441.301(c)(4)(iv)	The setting optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.	<p>Residents cannot come and go. They are locked inside and need a staff with them to leave. This was not documented in the ISPs. One wanted to see friends more but couldn't. The same resident claimed that the residents were regimented on when they could smoke, only being permitted to do so once an hour. The staff took all of them fishing but the resident noted being allergic to fish. Residents are not permitted to drink alcohol. All doors are locked and key codes needed to go in or out, including to the backyard. No residents have the code. A resident interviewed stated that they cannot eat in their room, they are only allowed to eat at the dining room table.</p> <p>People's Care Covina must ensure their model of service delivery aligns with the regulatory criteria to facilitate independence and community integration, and amend practices to ensure that schedules are not regimented and that individuals have the opportunity to set their own schedules and participate in activities of their choosing.</p>
441.301(c)(4)(v)	The setting facilitates individual choice regarding services and supports and who provides them.	<p>There were members there that were in different day programs, but it appears that there was a preference to stay with People's Care residential and day options, although the provider said they did have a choice. When discussing with staff a person's ability to move, staff referenced residents moving to a different home that is owned/operated by the same provider.</p> <p>People's Care Covina must ensure their model of service delivery aligns with the regulatory criteria 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>

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
441.301(c)(4)(vi)(A)	The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity. For settings in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.	<p>The Residency Agreement is between the setting owner/operator, the regional center, and the individual. It does not include protections for eviction, appeal rights, or timelines for giving a resident notice to move or for eviction.</p> <p>People's Care Covina 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)	Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.	<p>Individuals did not have keys to their bedrooms. Resident interviewed said that they wanted a key to their room but have been waiting a long time for a locksmith to come.</p> <p>People's Care Covina 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>
441.301(c)(4)(vi)(D)	Individuals are able to have visitors of their choosing at any time.	<p>The setting has established visiting hours. House rules state that visitors are allowed during reasonable hours and they ask them to visit from 3 PM to 8 PM if possible, Monday-Friday and 10 AM to 9 PM on the weekends.</p> <p>People's Care Covina should revise the visitor policy and practice to ensure that individuals can have visitors of their choice at any time.</p>

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
441.301(c)(4)(vi)(F)	Any modification of the additional conditions, under §441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan.	<p>There were many restrictions/modifications noted through discussion with staff, but none were noted in the ISPs. For example, some cabinets were locked in the kitchen, including all sharp objects. Individuals were prohibited from going outside the home to the back patio or yard without assistance to unlock the door and supervision by staff, and individuals who smoked were placed on a schedule, directed by staff about when they can go outside to smoke.</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 People’s Care Covina must adhere to the plan. People’s Care Covina should ensure that any relevant modifications for a specific individual are incorporated into the plan, and that modifications to the settings criteria are limited only to a specific assessed need as opposed to a blanket modification.</p>

Additional Provision	Language	Violation Finding Based on Site Visit
State Medicaid Director Letter #19-001 ¹⁰	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 provider agency has a division within the company that develops and presents training; the HCBS settings criteria was the most recent staff training and evidence was included in the training file. However, the implementation of the rule was not evidenced in the setting’s operations or ISPs.</p> <p>People’s Care Covina should ensure all employees have consistent and reinforced training on the HCBS settings regulatory criteria. In addition, this training should be incorporated into the daily activities and operations of the setting.</p>

Country Villa Terrace Assisted Living Center, Residential Care Facility for the Elderly (RCFE) – Visit Thursday, June 8, 2023

Facility Description:

The setting is situated on a busy street in Los Angeles with a bus stop out front and many restaurants and shopping nearby. There are three floors in the building; the main floor houses business offices, kitchen, maintenance, security, and the parking garage. Floors 2 and 3 are resident units; the dining area is on the 3rd floor with a congregate television/activity area on the second floor that leads outside to a fenced in smoking area. In addition to the assisted living setting, the building houses a nursing facility that is separated by locked doors. There is no shared staff between the two facilities and there are separate entrances. There are both single and double occupancy rooms. The setting has the capacity for 136 beds, but there are approximately 68 total residents currently and 54 of them receive Medicaid HCBS.

Site Visit Review Description:

The site visit team reviewed the ISPs for a sample of the setting’s HCBS participants and interviewed two direct support staff prior to receiving a tour of the facility. The doors were all locked and residents were not able to come/go. The setting had a remediation plan to address assigned seats in the dining room, visiting hours, and a curfew. The remediation plan was intended for implementation by October 2022. However, not all aspects had been implemented and findings are addressed in this report.

¹⁰ [Heightened Scrutiny SMD-SMDL Final \(medicaid.gov\)](https://www.medicaid.gov); see question 10

Findings of Site Visit:

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
441.301(c)(4)(i)	<p>The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.</p>	<p>Transportation to medical appointments is available through the setting within a 15-mile limit. There is no other transportation that is facilitated by the setting. Otherwise, the residents can come and go to areas within walking distance or where the family takes them. Residents must be allowed in and out by the staff as the facility is locked. The setting does not coordinate community integration, individually or with groups, and there is no evidence that individuals have the opportunity to seek employment or work in competitive integrated settings.</p> <p>Country Villa Terrace Assisted Living Center must ensure their model of service delivery aligns with the regulatory criteria to support participants' full access to the greater community. Establishing partnerships with community resources and leveraging existing community transportation options should be explored. Country Villa Terrace Assisted Living Center should develop policies, practices and resources to ensure that individuals have full access to the greater community.</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>One of the residents interviewed said they were told by their care coordinator that this setting was their only option. Options were not documented in the service plans.</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>

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
441.301(c)(4)(iii)	The setting ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.	<p>The facility rules state that the facility staff can enter resident rooms when the resident is not there. In addition, the site visit team watched a staff person walk into various residents' rooms without knocking.</p> <p>Country Villa Terrace Assisted Living Center must ensure their model of service delivery aligns with the regulatory criteria to support participants' right to privacy, dignity, respect and freedom from coercion and restraint.</p>
441.301(c)(4)(iv)	The setting optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.	<p>The facility rules state that residents must have permission before having alcohol and that individuals in shared rooms cannot use a television or audible devices.</p> <p>Additionally, the facility requested that residents "avoid overt displays of affection in common areas."</p> <p>Country Villa Terrace Assisted Living Center must ensure their model of service delivery aligns with the regulatory criteria to facilitate independence and community integration, and amend practices to ensure that schedules are not regimented and that individuals have the opportunity to set their own schedules and participate in activities of their choosing.</p>

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
441.301(c)(4)(vi)(A)	<p>The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity. For settings in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.</p>	<p>The residency agreement indicates that residents “can’t make any alterations or decorations to the unit.” A deposit may be required to return it to the prior condition if changes are allowed.</p> <p>The setting required the residents to maintain their personal appearance and hygiene. If they did not, they could be evicted.</p> <p>Country Villa Terrace Assisted Living Center should revise the existing lease agreement to ensure it is a legally enforceable agreement that provides comparable protections against eviction as those provided under landlord/tenant law.</p>
441.301(c)(4)(vi)(B)	<p>Each individual has privacy in their sleeping or living unit.</p>	<p>There are no cameras in the residents’ rooms, however the Facility Rules state the residents consent to cameras in their rooms. Shared bathrooms do not have locks on the doors. The rooms have no privacy within the sleeping area in shared rooms.</p> <p>Country Villa Terrace Assisted Living Center must address these issues to ensure each individual has privacy in their sleeping or living unit. In addition, cameras should not be utilized in HCBS settings unless the individual is receiving a Medicaid-covered service that the state has received CMS approval to provide using remote monitoring.</p>

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
441.301(c)(4)(vi)(B)(2)	Individuals sharing units have a choice of roommates in that setting.	<p>Residents are placed together in rooms based on the Administration’s knowledge of the individuals. If a resident wants to change roommates, they can ask to do so.</p> <p>Country Villa Terrace Assisted Living Center must revise its model of service delivery to ensure that individuals sharing units have a choice of roommates.</p>
441.301(c)(4)(vi)(B)(3)	Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.	<p>The residency agreement indicates that residents “can’t make any alterations or decorations to the unit.”</p> <p>Country Villa Terrace must ensure that individuals have the freedom to furnish and decorate their units.</p>
441.301(c)(4)(vi)(C)	Individuals have the freedom to control their own schedules and activities, and have access to food at any time.	<p>Residents are allowed to have mini-fridges in their rooms, but in some of the shared rooms, there isn’t enough space to do so. The residents state that snacks are distributed at a certain time and that there are not enough snacks for the building to go around and there is limited access to food. They rely on vending machines if they have money. The snack shop in the setting is not open very often.</p> <p>Country Villa Terrace Assisted Living Center must revise its model of service delivery to ensure individuals have access to food at any time, unless there is a documented reason, described in an individual’s person-centered service plan, for any restrictions.</p>

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
441.301(c)(4)(vi)(D)	Individuals are able to have visitors of their choosing at any time.	<p>The Personal Rights document stated visitors were allowed during waking hours. House Rules state visiting hours are from 9 AM - 5 PM. No overnight visitors are allowed per the Residency Agreement; however, residents interviewed said that they have seen overnight visitors there.</p> <p>Country Villa Terrace Assisted Living Center should revise the visitor policy and practice to ensure that individuals can have visitors of their choice at any time.</p>
441.301(c)(4)(vi)(E)	The setting is physically accessible to the individual.	<p>The egress to the outdoor area has a door that is not easily operable by individuals using wheelchairs.</p> <p>Country Villa Terrace Assisted Living Center should ensure that the setting is physically accessible to the individuals residing there.</p>

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
441.301(c)(4)(vi)(F)	Any modification of the additional conditions, under §441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan.	<p>No modifications were noted in the ISPs even though modifications were noted through discussions with staff and residents. Staff interviewed indicated they do not review the ISPs. The Administrator tells them about new residents.</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 Country Villa Terrace Assisted Living Center must adhere to the plan. Country Villa Terrace Assisted Living Center should ensure that any relevant modifications for a specific individual are incorporated into the plan, and that modifications to the settings criteria are limited only to a specific assessed need as opposed to a blanket modification.</p>

Additional Provision	Language	Violation Finding Based on Site Visit
State Medicaid Director Letter #19-001 ¹¹	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>There was no evidence of HCBS settings final rule training.</p> <p>Country Villa Terrace Assisted Living Center should ensure all employees have consistent and reinforced training on the HCBS settings regulatory criteria. In addition, this training should be incorporated into the daily activities and operations of the setting.</p>

¹¹ [Heightened Scrutiny SMD-SMDL Final \(medicaid.gov\); see question 10](#)

Beverly Hills Loving Care, Residential Care Facility for the Elderly (RCFE) – Visit Monday-June 5, 2023

Facility Description:

The setting is located in Los Angeles on a busy street with public transportation stops, restaurants and shopping. Visitors can park on the street or a parking garage under the building. The entrance to the setting is locked and requires front desk staff to buzz in residents and visitors.

Administrative staff noted this is necessary due to security concerns. The week prior to the visit there was an incident in which a person came in from the street and became a possible threat to the staff/residents. The setting has an entryway and staff offices immediately adjacent to the entry, a large resident dining area, an outside sitting area, and laundry facilities. There are two floors of resident living units. There are no shared units. Married couples can reside together if they choose. At the time of the visit there were no married couples residing at the setting. Bathrooms have locks. Units are key locked and the Administrator noted each resident has their own key. Individuals are free to bring their own furniture and belongings to use in their unit. The setting has the capacity for 176 residents, but currently has 86 total residents, 72 of whom receive Medicaid HCBS. There are private rooms only that include bathrooms with locks on doors. The setting provides transportation to doctors and services by using Uber and the provider pays for rides.

Site Visit Review Description:

The site visit team completed a COVID screening and signed in as visitors after being buzzed in to the facility. Administrative staff provided the site visit team an unoccupied living unit as a space to meet and review documents. The site visit team toured the facility and interviewed both direct support staff and residents.

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 setting Administrator noted “taking people out who have diapers is very difficult.” Staff assist with coordination of community outings; sometimes family or conservators coordinate. The setting assesses the individual upon intake and bases community integration on doctor’s orders. The setting noted they facilitate outings, but it happens rarely since COVID-19 because residents don’t want to go out. The setting does not own a vehicle for transportation. On occasion, the setting rents a van to take residents out. The setting will pay for Uber if a resident wants or needs to go out. Most activities occur at the setting.</p> <p>ISPs do not indicate personal choices, interests, opportunities for volunteer or work, or to control personal resources.</p> <p>Beverly Hills Loving Care 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. Beverly Hills Loving Care should develop policies, practices and resources to ensure that individuals have full access to the greater community.</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 choice of setting was not documented in the individuals’ ISPs.</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>

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
441.301(c)(4)(v)	The setting facilitates individual choice regarding services and supports and who provides them.	<p>Residents don't have a choice over their home health care agencies who provide services in the setting, with the exception of two or three options offered by the provider. The Administrator noted choice is limited due to concerns about fraud. The residents are permitted to select other care providers such as their primary care physician.</p> <p>Beverly Hills Loving Care must ensure their model of service delivery aligns with the regulatory criteria 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)(D)	Individuals are able to have visitors of their choosing at any time.	<p>Administrative staff initially noted individuals can have visitors of their choosing at any time. When discussed further, staff indicated the Administrator is on-call 24/7. If staff has questions about whether any particular visitor poses a safety risk, they contact the Administrator to get approval for the visitor. Additionally, a Resident Rights document notes visitors are allowed during reasonable hours. The House Rules include recommended visiting hours from 8 AM to 8 PM seven days per week. Residents must sign in and get permission from the site Administrator before allowing a visitor after 8 PM. Administration stated this is due to safety and security. Residents' families as overnight guests also require prior coordination with the facility; Administration noted this is to assure all residents are comfortable. There is nothing mentioned in the policies about non-familial guests being allowed to stay overnight.</p> <p>Beverly Hills Loving Care should revise the visitor policy and practice to ensure that individuals can have visitors of their choice at any time.</p>

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
441.301(c)(4)(vi)(E)	The setting is physically accessible to the individual.	<p>There are two buildings with a shared outdoor patio between them. One of the buildings hosts activities for the residents. There is a ramp with a handrail that allows residents access to the patio. Residents from the other building also have to use this ramp to go to the activity area. It was observed that staff had to help residents with walkers up and down the ramp. If residents do not have assistance, they are limited from either accessing the patio area or the activities in the other building.</p> <p>Beverly Hill Loving Care must ensure that its setting is physically accessible to all individuals residing there.</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, particularly those associated with medications, alcohol, visitors, and going out of the facility, were verbally noted by staff, but not included in the ISP. The Administrator noted that modifications/restrictions are identified by the physician and/or family. Administration noted that residents are allowed to drink wine or beer if they have permission from a doctor, but no other alcohol. The resident policies state that residents can have microwaves if their “state of minds allow.”</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 Beverly Hills Loving Care must adhere to the plan. Beverly Hills Loving Care should ensure that any relevant modifications for a specific individual are incorporated into the plan, and that modifications to the settings criteria are limited only to a specific assessed need as opposed to a blanket modification.</p>

Additional Provision	Language	Violation Finding Based on Site Visit
State Medicaid Director Letter #19-001 ¹²	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.	No evidence of staff training on HCBS settings criteria was noted. Beverly Hills Loving Care should ensure all employees have consistent and reinforced training on the HCBS settings regulatory criteria. In addition, this training should be incorporated into the daily activities and operations of the setting.

Holy Hill, Residential Care Facility for the Elderly (RCFE) – Visit Wednesday, June 7, 2023

Facility Description:

The setting is located approximately an hour and a half east of Los Angeles in a rural area. It is a home that is owned and operated by the provider/owner and her husband, who also reside in the setting. There are seven bedrooms for residents. Each bedroom has a toilet and sink with a full shared bathroom down the hall. This setting serves individuals with dementia who are on hospice. There are six total residents in the home, two receiving Medicaid HCBS. Three total residents are on hospice and one of them is receiving HCBS waiver services. The home is large and open; the bedrooms are large enough that residents can have a bed, dresser, and an area to sit and watch television. The backyard is private with a patio and seating area. Residents can go outside as they choose but require assistance from staff to do so.

Site Visit Review Description:

The site visit team convened at the setting’s dining room table to review ISPs. However, the provider does not have all the ISPs. The provider/owner met with the case manager from the CCA and developed a plan, but she was told the plans will be delivered at the next visit by the case manager during the next quarter. The provider/owner of the setting, along with state staff, sat with the site visit team as the documentation was reviewed and answered questions about general operating information about the setting. The provider/owner gave the team a tour of the setting. Site visit team members interviewed one resident, spoke briefly with one resident as she was in her room watching television, and saw two other residents who were non-ambulatory, non-verbal, and receiving hospice services.

Findings of Site Visit:

¹² [Heightened Scrutiny SMD-SMDL Final \(medicaid.gov\); see question 10](#)

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>Individuals receive services in the home setting and go out minimally. No one attends day services. Although the provider asked for the ISPs, she has not received those from the CCA case manager. The provider showed various e-mail communications and follow up to the CCA case manager requesting the care plans. The provider noted the case manager was at the setting last week and intends to send the ISPs by next quarter.</p> <p>One of the residents has resided in the setting for 6-7 years, coming to the home from a nursing facility. Staff provides prompts for decision making and encourages going outside of the home for walks. However, community engagement is limited and staff noted incontinence as a barrier to leaving the setting more frequently. Other residents on hospice are unable to leave their beds.</p> <p>Holy Hill 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. Holy Hill should develop policies, practices and resources to ensure that individuals have full access to the greater community. Understanding the intensive support needs of many individuals with memory impairments, Holy Hill should consult CMS/ACL guidance released in 2016¹³ on ways to implement person-centered principles for individuals with dementia.</p>

¹³ [faqs 12-14-16 \(medicaid.gov\)](https://www.medicaid.gov/faq/12-14-16)

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
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>There was no evidence the setting was selected by the individual from among setting options including non-disability settings. The provider/owner mentioned that some of the residents were placed in her home because family members were aware she provided services to the elderly and asked if she would take care of their family member.</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)(iv)	The setting optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.	<p>A resident interview noted staff pick out clothing and activities. A resident was sitting in front of a finished puzzle, a word-find, and a Bible but was not engaged with anything. During the visit, the caregiver took the resident outside for a walk. The activities calendar reflects one activity per day and is based on residents' needs.</p> <p>Holy Hill must ensure their model of service delivery aligns with the regulatory criteria to facilitate independence and community integration, and amend practices to ensure that schedules are not regimented and that individuals have the opportunity to set their own schedules and participate in activities of their choosing.</p>

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
441.301(c)(4)(vi)(A)	The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity. For settings in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.	<p>The Admission Agreement and Contract was geared towards a nursing facility setting. For example, it contained Residents Rights in a Nursing Facility and Your Right and Protections as a Nursing Home Resident.</p> <p>Holy Hill should revise the existing lease agreement to ensure it is a legally enforceable agreement that provides comparable protections against eviction as those provided under landlord/tenant law.</p>
441.301(c)(4)(vi)(B)	Each individual has privacy in their sleeping or living unit.	<p>Each individual has their own room, but noted all doors are kept open so the provider can keep eyes on the residents in case they need her care.</p> <p>Holy Hill should ensure each individual has privacy in their sleeping or living unit.</p>
441.301(c)(4)(vi)(B)(1)	Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.	<p>There are no locks on bedroom doors and nothing to indicate individuals have keys to the doors of the home.</p> <p>Holy Hill 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>

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
441.301(c)(4)(vi)(D)	Individuals are able to have visitors of their choosing at any time.	<p>Visiting hours were noted. However, the provider/owner indicated that families can come visit when they choose. The Admission Agreement and Contract has visiting hours listed as 11 AM to 5 PM, excluding mealtimes. The House Rules indicate there are visiting hours between 10 AM to 6 PM.</p> <p>Holy Hill should revise the visitor policy and practice to ensure that individuals can have visitors of their choice 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>Many modifications were noted through the visit and discussion with the provider/owner, including locks, visitors, and privacy in sleeping units. ISPs that were reviewed onsite did not note modifications to the additional conditions of the settings rule.</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 Holy Hill must adhere to the plan. Holy Hill should ensure that any relevant modifications for a specific individual are incorporated into the plan, and that modifications to the settings criteria are limited only to a specific assessed need as opposed to a blanket modification.</p>

Additional Provision	Language	Violation Finding Based on Site Visit
State Medicaid Director Letter #19-001 ¹⁴	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>There was no evidence of HCBS settings rule training. The provider’s daughter-in-law who is also an HCBS provider stopped by during the visit and noted she assisted the provider/owner with understanding HCBS settings requirements and the purpose for our visit. It appears the provider/owner had a conversation with the state regarding the HCBS rule as they were out of compliance and had to remediate in several areas, but no training occurred. The same areas they had to remediate around visitors and facilitating access to the community are still concerns on this visit.</p> <p>Holy Hill should ensure all employees have consistent and reinforced training on the HCBS settings regulatory criteria. In addition, this training should be incorporated into the daily activities and operations of the setting. CMS acknowledges the complexity in providing services to individuals with dementia, and those receiving end-of-life care. However, the principles of person-centered planning continue to apply, so that provider operations take into account the individualized needs and preferences of residents.</p>

Hamilton House, Adult Residential Facility (ARF) – Visit Monday, June 5, 2023

Facility Description:

The setting is a house in the greater Los Angeles area where nine total residents reside, seven males and two females. Five of the residents receive Medicaid HCBS. The setting is staffed 24/7 although most residents don’t require this much daily support. There are seven bedrooms and three bathrooms. There are two shared rooms; one is for a couple that is dating and the other are two men who chose to room together. Residents can choose their roommates if they have them. Residents have keys to their bedrooms. The front door is not locked and people can come and go as they please. Entering the home through the front door is a living room with a dining room and kitchen adjacent that all residents have access to. There was a closed cot with a mattress sitting in the corner of the living room. Behind the living room is a long hallway where bedrooms and bathrooms are located. There is a driveway at the side of the house that leads to the separate garage and backyard and side entrance. The setting

¹⁴ [Heightened Scrutiny SMD-SMDL Final \(medicaid.gov\); see question 10](#)

has a laundry room off the kitchen. Several residents work in the community; examples of workplaces are Costco and Vons. There is a public bus stop in walking distance and individuals also use Dollar ride to get around town. Currently the setting is understaffed and they are trying to hire another staff member. Individuals work and/or attend day programs if they choose. They can also choose to attend neither. Residents are able to come and go as they choose and access public, disability-supported transportation services. Staff provides transportation to scheduled outings and appointments.

Site Visit Review Description:

The site visit team arrived prior to the residents returning home from work and the day program. There were a couple of residents who were out for a walk when the team arrived. The team convened at the dining room table to review ISPs, lease/residency agreements and interview direct support staff as well as administrative staff. Once the residents arrived home, the team was provided a tour of the setting and interviewed the residents who were available and willing to talk.

Findings of Site Visit:

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
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>There is no evidence of setting selection in the ISPs. During interviews, some residents noted they wanted to move and were in the process, but the process was rather lengthy and didn't include options for non-disability specific settings. Another resident said they were given a choice between three settings but all with the same provider. Interviews with staff noted the same; the process is long and at the discretion of the regional center service coordinator.</p> <p>Based on interviews with staff and residents, the regional center service coordinators make decisions about residential placement or offer residential options based on similar settings that have vacancies, and the individual's choice is not documented in the ISP.</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>

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
441.301(c)(4)(vi)(A)	<p>The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity. For settings in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.</p>	<p>The Residency Agreement is between the setting owner/operator, the regional center, and the individual. It does not include protections for eviction, appeal rights, or timelines for giving a resident notice to move or for eviction. Individuals also risk being evicted if they violate staff-written house rules around daily responsibilities of residents.</p> <p>Hamilton House must ensure that a lease, residency or other written agreement is in place for each individual and that the agreement provides protections from evictions and appeals processes that are comparable to those in the jurisdiction's landlord tenant laws.</p>
441.301(c)(4)(vi)(F)	<p>Any modification of the additional conditions, under §441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan.</p>	<p>There were multiple restrictions noted in the house rules, but no modifications were indicated in the ISPs.</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 Hamilton House must adhere to the plan.</p> <p>Hamilton House should ensure that any relevant modifications for a specific individual are incorporated into the plan, and that modifications to the settings criteria are limited only to a specific assessed need as opposed to a blanket modification.</p>

Additional Provision	Language	Violation Finding Based on Site Visit
State Medicaid Director Letter #19-001 ¹⁵	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>Staff indicate awareness of the HCBS settings rule but also have voiced concerns about individuals having independence and freedom due to the need for staff being responsible for residents' safety. There is no evidence of specific HCBS training.</p> <p>Hamilton House should ensure all employees have consistent and reinforced training on the HCBS settings regulatory criteria. In addition, this training should be incorporated into the daily activities and operations of the setting.</p>

¹⁵ [Heightened Scrutiny SMD-SMDL Final \(medicaid.gov\); see question 10](#)