

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

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November 20, 2023

Juliet Charron, Medicaid Administrator  
Idaho Department of Health and Welfare- Division of Medicaid  
P.O. Box 83702  
Boise, ID 83702

Dear Administrator Charron:

This letter and attached report are in reference to a site visit conducted by the Centers for Medicare & Medicaid Services (CMS) from September 11-14, 2023. CMS visited several settings in Idaho 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 Idaho. 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 your 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 Idaho, 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 Idaho.

- An absence of a system of person-centered planning and oversight for individuals enrolled in the HCBS waiver program was noted in Residential Habilitation and Residential Assisted Living Facility settings. Additionally, there is no case management

function independent of the settings. The full responsibility for person-centered planning and assuring health and welfare appears to be with providers of services. Should a participant enrolled in the waiver program be discharged by a provider, there is no entity to assure the continuation of services through a person-centered plan. Without a system of person-centered planning independent of the provider, there is no assurance that choice of services, supports, providers or service settings is offered or that the person's preferences and goals are considered. Without a system of oversight, there is no assurance of individual health and welfare or that the requirements of the HCBS settings rule are being met.

- There were no clear roles for the case management/service coordination entity regarding the development of person-centered service plans (PCSPs) and monitoring of services included in PCSPs, and the role of providers regarding the implementation of services per the PCSP. These roles should be well defined and regulated so that individuals are properly supported when receiving HCBS.
- The settings often had a service plan written by the provider, however, did not have a PCSP developed by an entity independent of the service provider. In the plans reviewed, there was no information available related to the settings criteria.
- Provider-controlled settings that were identified by stakeholders and included on the site visit were not assessed as such; they were presumed compliant as individual's own private homes. The state must assure that all provider-owned or controlled settings are assessed for compliance with all of the settings criteria that apply specifically to provider-owned or controlled settings.

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 facilitates individual choice regarding services and supports and who provides them.
- 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.
- Each individual has privacy in their sleeping or living unit.

- 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.

Idaho'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 December 20, 2023.

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

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

Sincerely,

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

Enclosure

**Heightened Scrutiny Site Visit - Idaho**  
**Summary Review by Setting**  
**Visit Dates: September 11-14, 2023**

**Idaho Site Visit Team:**

CMS Representative: Michele MacKenzie

ACL Representative: Jill Jacobs

New Editions: Amy Coey, Vicky Wheeler

**Introduction:**

The Site Visit Team visited two Residential Habilitation settings, two Residential Assisted Living Facilities (RALF), and one Certified Family Home (CFH) while in Idaho. The team started in Boise (southwest corner of the state) and travelled north throughout the state ending in Lewiston. Lewiston of Olympus, LLC was identified by the state as presumptively institutional and submitted to the Centers for Medicare & Medicaid Services (CMS) for a heightened scrutiny review. B & B Residential Facility, the Residential Habilitation setting type and Certified Family Home setting type were requested by the stakeholders for the site visit team to visit.

**Summary of Findings:**

Although a distinct review of each setting is included in this report, the table below summarizes the findings related to each of the HCBS settings criteria for the entirety of the visit to Idaho and identifies systemic issues noted through the review. In addition to the findings below, the team noted an absence of any system of person-centered planning and oversight for individuals enrolled the HCBS waiver program. There is no case management function outside of the settings where individuals receive services. The full responsibility for person-centered planning and assuring health and welfare appears to be with providers of services. Should a participant enrolled in the waiver program be discharged by a provider, there is no entity to assure the continuation of services through a person-centered service plan (PCSP). A review of one lease agreement noted the provider agency is responsible to assist the resident with transfer by providing a list of skilled nursing facilities, other residential care facilities including assisted living facilities, and certified family homes that may meet the needs of the resident. Without a system of person-centered planning independent of the provider, there is no assurance that choice of services, supports, providers or service settings is offered or that the person's preferences and goals are considered. Without a system of oversight, there is no assurance of individual health and welfare or that the requirements of the HCBS settings rule are being met. Additionally, a disconnect was noted between the Medicaid authority role of the state, the absence of a case management/service coordination entity, and providers regarding the development of PCSPs and implementation of services per the PCSP. These roles should be well defined and regulated so that individuals are properly supported when receiving home and community-based services (HCBS). Two settings were noted as being provider-controlled that were not assessed as such. The state must assure that all settings that are provider-owned and/or controlled have been assessed using settings rule criteria that applies specifically to these types of settings.

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.	B&B Residential Facility, Lewiston of Olympus
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.	B&B Residential Facility, Lewiston of Olympus
441.301(c)(4)(iii)	The setting ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.	B&B Residential Facility
441.301(c)(4)(v)	The setting facilitates individual choice regarding services and supports and who provides them.	B&B Residential Facility, Lewiston of Olympus
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.	Lewiston of Olympus, Abilities Residential Habilitation

Regulation Citation	Regulation Language	Setting Name
441.301(c)(4)(vi)(B)	Each individual has privacy in their sleeping or living unit.	B&B Residential Facility, Lewiston of Olympus

Additional Provision	Language	Setting Name
State Medicaid Director Letter #19-001 <sup>1</sup>	Description of how staff are trained and monitored on their understanding of the settings criteria and the role of person-centered planning, consistent with state standards as described in the waiver or in community training policies and procedures established by the state.	B&B Residential Facility, Lewiston of Olympus, Individual- Certified Family Home

### **B&B Residential Facility- Assisted Living Facility – Wednesday, September 13, 2023**

#### **Facility Description:**

B & B Residential Facility is located in a rural area at the end of a one-mile driveway in Kooskia, ID. It was identified by stakeholders as isolating individuals receiving HCBS from the larger community. There are 11 residents who have been at the setting for at least seven years. The age range of the residents is 47-73 years old. The RALF is licensed for 21 residents; however, the provider is not accepting new residents as they are trying to phase out of being a Medicaid HCBS provider. The last new resident moved in 7-8 years ago. The setting has a pool, deck, gazebo with fire pit, 50 acres of land, a vegetable garden, dining room, activity room, gym, separate living units for the residents, and a guest house for visitors. There is a female dorm with four residents and a male dorm with five residents. In the dorms, residents have their own bedroom and a shared bathroom in the hall. Two residents also share a bedroom with a bathroom on the setting grounds. The setting is a group of buildings where the residents live and includes the owner’s residence and office. There is a mini store in the office where residents can buy candy, food, and other essentials. The store is open twice per day. In addition to the owners/operators who provide services to the residents, there are three staff members who also support the residents but do not live in the setting. Each unit has a lock on the door. Nine of the residents have their own unit, while two residents share a unit by choice. Although the setting is accessible to all current residents, in the event the residents require an assistive device for ambulation, the setting will no longer be physically accessible.

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

The site visit team reviewed files including provider service plans, residency agreements, and provider policies at the provider office which is located on the grounds of the setting. The team also interviewed the owners/operators of the setting. A tour was provided of the setting and the team met with several of the residents.

#### **Findings of Site Visit:**

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<sup>1</sup> [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>Residents typically order items online rather than shopping in person. The owners/operators still have some concerns about COVID and therefore there are no outings into the community aside from doctor's appointments. Activities including salon/barber services, a swimming pool and limited church services are provided on-site. The owners/provider plan to take the individuals bowling once the bowling alley is open. The team was told that not many people have families or friends who visit. Intimate relationships are discouraged by the provider as they don't turn out well, causing people to stop taking their medications and start using drugs. Going into town is also discouraged as these activities can cause weight issues, over-spending and disruption to individuals' routines. No one works or volunteers outside of the setting. Each individual has a chore or job, such as washing tables or sweeping the deck, that they do onsite and receive compensation from the provider. There is no service coordinator or case manager associated with residents so other waiver services, including employment or day services, cannot be accessed.</p> <p>B&amp;B Residential Facility 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. B&amp;B Residential Facility 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.</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>The provider notes that individuals typically become aware of the setting by word of mouth. The provider also has a relationship with state hospitals and hospitals with psychiatric wards that have reached out to find placement for individuals. Individuals typically would visit, interview and be interviewed for placement. The provider noted there is no associated case manager or service coordinator to assist with person-centered planning, receipt of other needed services, or placement options. There is no evidence other services or settings options are presented to individuals.</p> <p>The state Medicaid Agency and the entity that is responsible for ensuring the development of the person-centered service plan must ensure that individuals receiving Medicaid-funded HCBS are afforded a choice of setting, in compliance with regulatory requirements, including a choice of non-disability specific settings.</p>
441.301(c)(4)(iii)	<p>The setting ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.</p>	<p>All the residents' private information (state ID's, Medicaid cards, social security cards, etc.) is located in binders in the business office which is kept unlocked.</p> <p>B&amp;B Residential Facility must ensure their model of service delivery aligns with the regulatory criteria to support participants' rights to privacy, dignity, respect and freedom from coercion and restraint. B&amp;B Residential Facility must modify their model of service delivery to protect the privacy of residents' health information.</p>

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
441.301(c)(4)(iv)	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 many restrictions imposed by the provider on smoking, alcohol, requiring daily exercise, food, relationships, and community involvement. Meals are scheduled 3 times per day and everyone must eat in the dining room. Everyone is required to exercise first thing in the morning. No one is permitted to leave the setting and daily activities are regimented by the provider.</p> <p>B&amp;B Residential Facility 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. B&amp;B Residential Facility must ensure their model of service delivery facilitates individuals making choices about daily activities and with whom to interact. Additionally, B&amp;B Residential Facility should revise their current practice to permit individuals to choose where to eat and with whom.</p>
441.301(c)(4)(v)	The setting facilitates individual choice regarding services and supports and who provides them.	<p>There is no variation or choice in the services and/or supports provided; everyone gets the same services and supports. The provider indicated that when other services were made available such as social activities, work, counseling and day activities, they went poorly.</p> <p>B&amp;B Residential Facility 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)(B)	Each individual has privacy in their sleeping or living unit.	<p>Two individuals share a room. There is no separation for privacy in the sleeping area. There should be assurance of privacy in the sleeping units.</p> <p>B&amp;B Residential Facility must ensure each individual has privacy in their sleeping or living unit.</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 provided three meals daily in the dining hall/cafeteria where fruit is available for snacks at all times and individuals can purchase snacks at the store on-site. However, residents are expected to eat when meals are served. The menus are developed and meals are prepared by the owners/operators of the setting. Residents are expected to exercise daily prior to breakfast. All activities are provided on-site by the owner/operators without an option to control their daily schedules.</p> <p>B&amp;B Residential Facility must ensure each individual has the freedom to control their own schedule and activities.</p>
441.301(c)(4)(vi)(D)	Individuals are able to have visitors of their choosing at any time.	<p>The owners/operators visitor policy indicates limitations on visitors based on owner/operator's approval.</p> <p>B&amp;B Residential Facility 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>Multiple modifications were noted through the interview with the owners/operators, but none were noted in the plans that were reviewed.</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 B&amp;B Residential Facility must adhere to the plan.</p>

Additional Provision	Language	Violation Finding Based on Site Visit
State Medicaid Director Letter #19-001 <sup>2</sup>	Description of how staff are trained and monitored on their understanding of the settings criteria and the role of person-centered planning, consistent with state standards as described in the waiver or in community training policies and procedures established by the state.	<p>There was no evidence of provider training on HCBS settings criteria. The staff indicated during the interview that they were unaware of the settings requirements; there were no trainings in the providers training and policy files.</p> <p>B&amp;B Residential Facility 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>

**Lewiston of Olympus, LLC (Previously Royal Plaza Retirement and Care Center, LLC), – Visit Thursday, September 14, 2023**  
**Facility Description:**

The setting was previously named Royal Plaza Retirement and Care Center, LLC and the signage still indicated that as the name. The setting is located in Lewiston, ID which has a population of approximately 35,000 people. The setting is two floors and located in the same building as a nursing facility, and is on a campus that includes bungalow style apartments for seniors. The setting is U-shaped. There is a living room in the

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

front, a nursing station, beauty salon, and a dining room. There are always fruit and snacks available in the dining room. The setting serves 96 total residents, 15 of whom receive HCBS. Individuals with Medicaid have double occupancy rooms unless the family is willing to pay for a single room. Six of the 15 HCBS residents have a double occupancy room. There is no facility transportation, but the facility will assist in arranging transportation.

**Site Visit Review Description:**

The site visit team reviewed service plans, residency agreements, and other documents in the residents’ charts that were made available. The team was also provided a tour and visited one resident’s apartment by invitation. Plans reviewed were written by the facility and contained very little person-centered information. No entity outside the facility, such as a case manager or service coordinator, is available to coordinate services not provided by the setting. Residents can have visitors at any time and can decorate their units as they choose.

**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>Plans do not include individual-specific information other than that which is medically related. Transportation is available through the setting for medical needs, but can be also be coordinated for non-medical community trips using public transportation. However, this information is not available in plans.</p> <p>There is an activity calendar posted in the hallway and there are at least two community outings offered per week. Individual information about activity preference and participation is not included in the person’s plan.</p> <p>Lewiston of Olympus 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. Lewiston of Olympus should develop policies, practices and resources to ensure that individuals have full access to the greater community.</p>

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
441.301(c)(4)(ii)	<p>The setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board.</p>	<p>There is no evidence in the plans to indicate how the setting was selected or if options were provided. The resident who was interviewed stated her daughter helped her find the 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.</p>
441.301(c)(4)(v)	<p>The setting facilitates individual choice regarding services and supports and who provides them.</p>	<p>The provider's residency agreement indicates if services are needed in addition to those provided by the facility, the facility contracts with certain agencies to provide those services. This coordination of services is done through the facility's nursing department.</p> <p>Lewiston of Olympus 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 does not include an appeal process when the agreement is terminated by the provider. The agreement notes a 15-day notice requirement will not delay an immediate transfer if designated by the facility.</p> <p>Lewiston of Olympus 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)	Each individual has privacy in their sleeping or living unit.	<p>Six individuals who are enrolled in HCBS waivers share three one-bedroom units. These individuals can be offered private rooms if they or their families are willing to supplement the Medicaid rate. Although these are shared bedrooms, there should be assurance of privacy in the sleeping units.</p> <p>Lewiston of Olympus must ensure each individual has privacy in their sleeping or living unit.</p>
441.301(c)(4)(vi)(B)(2)	Individuals sharing units have a choice of roommates in that setting.	<p>Six individuals who are enrolled in HCBS waivers share three living units. There should be assurance that individuals have a choice of roommates in this setting.</p> <p>Lewiston of Olympus 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>There is no documentation in the service plans regarding individual choice nor is there indication in the service plans of individually assessed needs to justify restrictions of choices.</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 Lewiston of Olympus must adhere to the plan.</p>

Additional Provision	Language	Violation Finding Based on Site Visit
State Medicaid Director Letter #19-001 <sup>3</sup>	Description of how staff are trained and monitored on their understanding of the settings criteria and the role of person-centered planning, consistent with state standards as described in the waiver or in community training policies and procedures established by the state.	<p>There was no evidence of training in HCBS settings criteria noted. The administrator indicated that she was unaware of the settings rule, they have not been trained and do not have training for staff.</p> <p>Lewiston of Olympus should ensure all employees have consistent and reinforced training on the HCBS settings regulatory criteria.</p>

**Abilities Residential Habilitation, – Visit September 12, 2023**

**Facility Description:**

The setting is a house located on a busy street in Payette, ID. Parking is at the front of the house with a small stoop and steps to enter. The backyard is large and fenced. There is a porch at the back of the house that is accessible through the laundry room. There are four residents; three females and one male. All residents were home during the site visit. There are three bedrooms and two bathrooms. Two of the residents are sisters and share a bedroom, while the other residents have their own room. There is a kitchen, dining area, and living room. The bedrooms do not have locks on them, and the bathroom located in the hallway does. Residents can choose roommates. They all knew each other prior to sharing the

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

house. The home has one staff member at all times (24-hour shifts and the direct support professional, DSP, can sleep while on duty). Another staff person or the guardian of the residents take residents to appointments and other community outings. Plans reflect and residents report being involved in community activities. Most are group activities but some are individualized. No one works or attends day programming; however, this is by choice. The provider supports the residents with managing personal resources. The residents selected the setting. Service plans and implementation plans reflect individual wants/needs, what is important to and for the individual, as well as selection of services and supports. Not all residents have locks/keys and these modifications are included in the applicable individual's service plan. Individual schedules and access to visitors at any time are restricted for some residents, and those restrictions are noted in the service plans as necessary. Staff training on HCBS settings criteria was noted in policy/staff training documents. This is a provider-controlled setting, but was not identified by the state as such.

**Site Visit Review Description:**

The team began the visit at the provider's business office in Emmet, ID, reviewing service plans, implementation plans written by the provider, and lease/residential agreements. The team had a discussion with the administrative staff about things such as how person-centered planning is achieved, how individuals select settings, and staffing patterns for the home. Following the meeting at the provider's business office, the site visit team drove to the residential habilitation setting to meet with the individuals and their staff. Administrative staff also met the team at the setting for the visit. The team conducted conversational interviews with the individuals. The home manager, who is also the guardian or co-guardian for all of the residents, was present and participated in the discussion. The residents all showed us their living space and their rooms were furnished and decorated to their liking.

**Findings of Site Visit:**

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
441.301(c)(4)(iii)	The setting ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.	Rights/dignity training is part of staff training. There was an incident noted where employment was not sought by a resident due to a previous issue related to bullying in the potential workplace.  While this is not a finding applicable to Abilities' implementation of the settings criteria, CMS notes that incidents such as this should be taken seriously by administration and staff, with opportunities for counseling or self-advocacy training offered to the individual when wanted, needed and appropriate.

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>There is one lease between the provider, Abilities, and the landlord, with the four residents listed as residents of the apartment. There is no lease or residency agreement between the residents and landlord or residents and provider. All residents have the same guardian, but the guardian does not have a signed lease between him and the landlord or provider.</p> <p>Abilities 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>

### Synergy 208 LLC, Residential Habilitation Home – Visit September 11, 2023

#### Facility Description:

The setting is located in a large apartment complex in Nampa, ID which is a small town north of Boise. The apartment complex is situated off a busy road and within walking distance to restaurants and shopping. There are three females who reside in the three bedroom apartment with a Department of Housing and Urban Development (HUD) subsidy. Two of the residents found the rental and invited the other resident to join them. One resident has a master suite which includes a bathroom and bedroom, the other residents share a bathroom that is located in a common hallway. There is an eat-in kitchen, living room, and an outside balcony area that is easily accessible. Off the balcony is a locked storage area where residents can store their belongings as needed. There is one key and it is accessible to all residents. The bedrooms do not have locks on them, but the bathroom doors do. The provider mentioned that the apartment complex rents apartments without locks based on the requirements of the housing subsidy. They can change out the door/lock if a resident wants a lock. The residents have a lease with the landlord and is a standard lease for the jurisdiction. The home has one staff member at all times (three shifts that rotate for 24-hour coverage). There is another staff person who takes residents to appointments and other community outings; community activities include shopping, going out to eat, and swimming. The provider also does one-on-one community outings with the residents. There are no residents who have jobs, but if they chose to, the provider would assist them in getting to work or coordinating with the service coordinator to set up transportation with the access bus. The residents can go out individually or stay home alone. Any restrictions to choice of daily schedules and activities are documented in the service plan. Each person residing in the home receives services and is integrated into their community to the extent they choose; etc. Each resident has a service plan that describes their likes/dislikes, needs/wants and each resident directs their own day, environment and interactions. Choice is reflected in the service

plan and provider implementation plan. Each resident indicated through interview they are able choose, and do have choice, regarding services/supports. Residents reported, and staff agreed, that residents could have visitors of their choosing at any time. The provider has documentation of HCBS settings criteria training for staff, which includes rights/responsibilities/privacy/dignity/respect/freedom from coercion and restraint.

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

The site visit team began the visit at the home of the provider; her office is located in her home in Meridian, ID. The team reviewed service plans, developed by the service coordinator, individual implementation plans which were developed by the provider and based on the service plans, lease agreements, and training materials/documentation. The provider, the service coordinator, and the individuals served all attend the annual meeting to review service plans and policies. The service coordinator visits monthly. After the document review, the site visit team drove to the residential habilitation setting and interviewed one DSP and the three residents. The residents all showed the team their living space and their rooms were furnished and decorated to their liking. The setting was physically accessible to the residents. This apartment is not operated as a provider owned or controlled setting.

#### **Certified Family Home – Visit Wednesday, September 13, 2023**

##### **Facility Description:**

The setting is an individual's home where the service recipient lives with his parents who are also the HCBS provider. The home is in Kamiah, ID, a rural town with approximately 600 residents. The house is located on a busy street and across the street from a coffee shop.

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

The site visit team met with the individual receiving services and his parents on the front porch/patio of the home and included a conversation with the family and a review of the service plan. The parent/provider and individual served participate in a six-month check-in and annual planning meetings with the service coordinator and other HCBS providers. The individual enjoys spending time with his family, is an artist who likes ceramics and drawing, attends a day setting twice a week, taking Prairie Transportation to get there and back, and is very involved in learning life skills from his parents/providers. The individual enjoys walking to the river and swimming and fishing. At this time, there is no interest in seeking employment, but the individual knows this is an option. He does volunteer at his high school, running errands and providing custodial help. He lives with his family by choice. He is aware of other options, but he is confident in his choice to live with his family. The parent/provider noted they treat the individual just like everyone else in the family and assures he has a life similar to others as he chooses. The individual is involved in making personal choices about his services/supports.

**Findings of Site Visit:**

Additional Provision	Language	Violation Finding Based on Site Visit
State Medicaid Director Letter #19-001 <sup>4</sup>	Description of how staff are trained and monitored on their understanding of the settings criteria and the role of person-centered planning, consistent with state standards as described in the waiver or in community training policies and procedures established by the state.	<p>There was no evidence the parent/provider had received training in HCBS settings rule criteria. However, it should be noted the principles by which services were provided were very much in line with HCBS characteristics.</p> <p>The State Medicaid Agency should assure that all Certified Family Home providers have consistent and reinforced training on the HCBS settings regulatory criteria.</p>

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