

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



Disabled & Elderly Health Programs Group

December 6, 2022

Lisa Olson
Director
State of Wisconsin, Department of Health Services
1 West Wilson Street, Room 350
P.O. Box 309
Madison, WI 53701

Dear Director Olson:

This letter and attached report are in reference to a site visit conducted by the Centers for Medicare & Medicaid Services (CMS) from June 27-30, 2022. CMS visited several settings in Wisconsin 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 Wisconsin. We are asking the state to apply remediation strategies addressing the feedback contained in our report to the specific setting(s) as identified. We note that the HCBS settings criteria identified in the report that are followed by an asterisk require the state to go beyond ensuring that the individual setting has completed the necessary actions identified; specifically, complying with person-centered planning requirements requires further direction to and collaboration with the entities responsible for developing and monitoring the person-centered plans and with the HCBS provider community that is responsible for implementing services and achieving the objectives outlined in the plan. In addition, CMS notes that the state's remediation strategies must be applied to all remaining similarly situated settings you have identified as being presumptively institutional that were not included in CMS' site visit to ensure compliance with the settings criteria at 42 CFR § 441.301(c)(4) by March 17, 2023. Finally, the state should ensure issues identified in this report are addressed in the state's overall assessment process of all providers of HCBS in Wisconsin, to ensure that all providers are being assessed appropriately against the regulatory settings criteria and will implement the necessary remediation to achieve timely compliance.

As described more fully in the attached report, CMS notes below several areas where issues were found to exist across several locations, which raise systemic concerns that must be addressed by the state. Specifically, the following regulatory criteria located at 42 CFR 441.301(c)(4) were not found to be in practice:

- The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.
- The setting ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.
- 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.
- Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.
- Individuals have the freedom and support to control their schedules and activities and have access to food at any time.
- Individuals are able to have visitors of their choosing at any time.
- Modifications of additional conditions in provider owned and controlled residential settings under § 441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan.*

CMS is awaiting the submission of Wisconsin's Statewide Transition Plan (STP) describing strategies to ensure that all providers of Medicaid HCBS have been assessed to meet the regulatory criteria and any needed remediation has been identified. The state's practice for addressing the observations described in the attached report must align with the processes described in the STP when the statewide transition plan is approved by CMS.

CMS requests that the state provide a written response providing updated information describing how the state will remediate both the process for developing and implementing the person-centered service plan and the individual settings to ensure compliance with all of the settings criteria. CMS also requests a written response on how the state will apply this feedback to the ongoing monitoring of person-centered planning functions and settings in the HCBS delivery system as noted above. CMS requests this information be submitted no later than January 5, 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 Wisconsin's successful delivery of Medicaid-funded HCBS.

Sincerely,

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

Enclosure

**Heightened Scrutiny Site Visit- Wisconsin
 Summary Review by Setting
 Site Visit Dates: June 27-30, 2022
 Report Date: August 12, 2022**

Wisconsin Site Visit Team:

CMS Representative: Ralph Lollar
 New Editions: Amy Coey and Vicky Wheeler
 ACL: Beverley Laubert
 Wisconsin: Glenn Lamping, Christian Moran, Dana Raue, and Fawn Gusk

Introduction:

The Site Visit Team visited six settings in Wisconsin. All are residential settings; three of the settings are Community-Based Residential Facilities (CBRF), two are Residential Care Apartment Complexes (RCAC), and one is an Adult Family Home (AFH). All settings were submitted to CMS for a heightened scrutiny review because they are either in the same building as a provider of inpatient institutional services or are on the grounds of or adjacent to a public institution. The settings visited are as follows: Orchard View Terrace (CBRF), Woodland Care - Clark County Rehabilitation and Living Center (CBRF), Dove Healthcare (RCAC), Country Ridge (RCAC), Clearview Community Group Home (AFH), and St. Anne’s Salvadorian Campus (St. Anne’s Mission Court (CBRF) and St. Anne’s Providence Court (CBRF)). St. Anne’s Salvadorian Campus was evaluated as one setting. The table below provides a summary of all findings for each of the settings that were visited. Systemic issues include community integration, use of person-centered service plans to reflect modifications of the additional conditions, locks on doors with only appropriate staff having keys, having visitors at any time, and staff training on HCBS settings criteria.

| Rule Citation | Rule 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. | Woodland Care- CBRF, Country Ridge- RCAC, Clearview Community Group Home- AFH |

| Rule Citation | Rule Language | Setting Name |
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| 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. | Woodland Care- CBRF |
| 441.301(c)(4)(iii) | Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint. | Woodland Care- CBRF, Clearview Community Group Home- AFH |
| 42 CFR 441.301(c)(4)(iv) | Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact. | Woodland Care- CBRF, Country Ridge- RCAC |
| 441.301(c)(4)(vi)(B)(1) | Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors. | Woodland Care- CBRF, Country Ridge- RCAC, Clearview Community Group Home- AFH |
| 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. | Woodland Care- CBRF |
| 441.301(c)(4)(vi)(C) | Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time. | Woodland Care- CBRF, Clearview Community Group Home- AFH |
| 441.301(c)(4)(vi)(D) | Individuals are able to have visitors of their choosing at any time | Woodland Care- CBRF, Country Ridge- RCAC, Clearview Community Group Home- AFH, Orchard View Terrace-CBRF), |
| 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 | Woodland Care- CBRF, Country Ridge- RCAC, Clearview Community Group Home- AFH |

| Rule Citation | Rule Language | Setting Name |
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| | specific assessed need and justified in the person-centered service plan. | |
| Additional Provision | Language | Setting Name |
| Staff Training on HCBS Setting Rule Criteria - 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. | Woodland Care- CBRF, Country Ridge- RCAC, Clearview Community Group Home- AFH, Orchard View Terrace-CBRF), Dove Healthcare- RCAC, St. Anne's Salvadorian Campus (CBRF) |

Woodland Care (Clark County Rehabilitation and Living Center) (CBRF)

Facility Description:

Woodland Care is part of a campus setting that is located in rural northern Wisconsin. The building and campus were previously used as a state mental hospital. The eight-bed unit is located in the same building that houses a 172 bed NF and a 16 bed ICF-ID. There is a main highway that runs in front of the setting, but is separated by a long dirt road that is used to access the property. The building sits on a large parcel of rural land and has a walking area behind the building that can be accessed by the CBRF residents if they are with staff. Woodland Care is located on the fourth floor of the building and has an elevator designated to only stop at the main floor and the fourth floor. The CBRF has a distinct entrance that is secured, but is not currently in use due to COVID. Visitors are required to come through the main entrance at the NF and complete COVID screening prior to visiting.

Site Visit Review Description:

The site visit team arrived and proceeded through the main entrance at the NF, completing the necessary COVID screening. The team was met by the program administrator and shown to a room where PCSPs were reviewed. The site visit team reviewed lease/residency agreements which provide participants with necessary protections. State staff was present during the visit. The site visit team was provided with a tour of the setting and interviewed several residents, one direct support staff, and the program administrator. It should be noted that during times when the site visit

¹ <https://www.medicaid.gov/federal-policy-guidance/downloads/smd19001.pdf>; see question 10

team were having conversations with the residents, staff would come out of the office and monitor the conversations. The following findings were noted through the course of the visit and through discussions with participants, staff, and the review of PCSPs.

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>Based on staff and participant reports, engaging in activities outside of the facility, in the community is very limited. Participants noted the main activity is walking on the track around the building when staff are available to accompany them. Overall, participants reported being bored and sitting in the shared area of the setting during the day. A resident indicated that anxiety is exacerbated by boredom and the reviewers saw physical impacts of the resident’s anxiety. There was a television available and a couple of the residents reported liking to watch shows. When the site visit team was shown the activity room, the available activity for participants was shredding magazine pages. There was also a piece of exercise equipment and a couple of puzzles available. One resident said she was looking forward to going to a local fair next month. Although there were goals for participants to “keep busy” or to “find employment”, there was no evidence of employment or volunteer opportunities provided in the plans that were reviewed or in interviews that were conducted.</p> <p>Woodland Care should ensure their model of service delivery aligns with the regulatory criteria to facilitate community integration. Establishing partnerships with community resources and leveraging existing community transportation options should be explored.</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 | It was noted by state staff, as well as by residential staff and in the heightened scrutiny packet submitted by the state, that participants of the setting were admitted to Woodland Care CBRF through court |

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| | <p>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>order. There was no indication in the PCSPs that options were provided, including non-disability specific options. At least two participants indicated they are “working to be allowed to get out of here”, noting they did not want to live in the setting and had to earn a different residence. One participant’s plan indicated that he had a behavior plan because he “gave the finger” to someone once in the last year. The site visit team was unable to find documentation of any other reason why he was placed in this setting and was “earning” his way to a different residential living arrangement.</p> <p>The state should assure that court-ordered admission of individuals does not negate the requirement for HCBS settings to meet all of the settings criteria.</p> <p>The Wisconsin Medicaid Agency, and the entity that is responsible for ensuring the development of the person-centered service plan should ensure that individuals receiving Medicaid-funded HCBS are afforded a choice of setting, in compliance with regulatory requirements. CMS notes that individuals being admitted to 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>Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.</p> | <p>The setting has a bright pink, padded, locked timeout room which the staff indicates has “only been used once.” The door to the timeout room is a key lock from the outside. The room is fully padded on the walls and floors and has an observation window from the staff office. Staff indicated that residents can go into the room when they feel like they want to calm down. Review of the PCSPs noted behavior interventions being used, as well as rights restrictions, such as removal of personal property and withholding community integration activities. However, behavior support plans</p> |

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| | | <p>were not available by the state or provider. It should be noted that restraint is permitted in Wisconsin waivers.</p> <p>Woodland Care should ensure their model of service delivery aligns with the regulatory criteria to protect individuals' rights to privacy, dignity, respect, and freedom from coercion and restraint. When the state allows for restraint or restrictive interventions during the delivery of HCBS, the state must assure that the intervention is based on an individual assessment and documented in the person-centered service plan.</p> <p>In addition, Woodland Care must install a mechanism in the door to the padded room that allows residents to leave the room when inside.</p> |
| <p>42 CFR 441.301(c)(4)(iv)</p> | <p>Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.</p> | <p>Participants noted during interviews they have little to do during the day. One participant noted that he likes to walk on the track around the building, but that's dependent on the availability of staff. No participants indicated they work or leave the setting during the day. Staff noted "if they trust the resident, then the care team decides what the resident can or cannot do". On the CBRF entrance door and in the setting, there is signage noting participants have limited opportunities for going outside to smoke; there was a schedule of three smoking times per day. There were no limitations noted in PCSPs and no indication that education about choice was provided to any participant.</p> <p>Woodland Care should ensure their model of service delivery aligns with the regulatory criteria to facilitate independence and community integration. For example, establishing partnerships with community resources and leveraging existing community transportation options should be explored. However, extensive</p> |

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| | | revisions to the person-centered service plan and the service delivery model to encourage and facilitate beneficiary autonomy are needed. |
| 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>Participant rooms were scant with personal items. It was noted that decorations consisted of pages colored from a coloring book. Staff indicated that when individuals have framed pictures of family or friends those are taken and the glass is replaced with plexiglass as a safety precaution for everyone in the setting. This concern is also appropriate to note in the above citation (42 CFR 441.301(c)(4)(iv)) as it appears the individual does not have the autonomy to make life choices regarding his/her physical environment.</p> <p>Woodland Care should ensure individuals are fully supported in decorating their own sleeping and living units.</p> |
| 441.301(c)(4)(vi)(C) | Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time. | <p>There was no evidence that food is available to participants at any time other than mealtimes. The site visit team was present during the evening mealtime, and noted the quality of the food was questionable. The participants were served an ice cream scooper of pasta and sauce that when served remained in the shape of the scooper; a side of carrots completed the meal. Participants indicated they eat what is served to them and do not participate in menu development or food preparation. No other food options were noted in the setting. Participants also noted they were put on diets. In direct contrast to what was observed, the resident agreement states that meals are served “restaurant style” and the web site says “resident choice buffet style meals and snacks.”</p> <p>Woodland Care should revise their current practice to permit individuals to have access to food at any time, and is encouraged to broaden the variety of food available and the ability of residents to participate in meal planning.</p> |

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| | | See findings described above for issues that must be addressed in order to comply with the portion of this criterion requiring that individuals have the freedom and support to control their own schedules and activities. |
| 441.301(c)(4)(vi)(D) | Individuals are able to have visitors of their choosing at any time | Reviewers noted visiting hours were posted at the entrance. No participants indicated they have any visitors. Woodland Care should revise their current practice to permit individuals to have visitors at any time, including through the removal of the posted visiting hours. |
| 441.301(c)(4)(vi)(F) | Any modification of the additional conditions, under §441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan. | Plans that were reviewed by the site visit team were scant with information and did not include information about modifications such as the restrictions on smoking previously mentioned; assessment of the individuals' wants and needs were not included in the plans. Participants noted modifications to the conditions of the rule related to locks on doors and visitors that were put into place, which were not noted in the PCSPs. The Wisconsin 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 Woodland Care must adhere to the plan. |
| Additional Provision | Language | Violation Finding Based on Site Visit |
| Staff Training on HCBS Setting Rule | Description of how staff are trained and monitored on their understanding of the | There was no indication that staff were aware the setting had to demonstrate the qualities of an HCBS setting or that the setting was |

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| <p>Criteria - State Medicaid Director Letter # 19-001²</p> | <p>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> | <p>being operated with fidelity to the rule. One staff reported she understood that the setting was supposed to be “homelike” and tried to talk with the participants about their likes and dislikes, including what they like to do with their day and what they liked to eat. Administrative staff clearly did not understand the criteria or qualities of an HCBS setting and was not aware that the information provided related to the setting was in direct conflict with the HCBS setting rule.</p> <p>Woodland Care should ensure all employees have consistent and reinforced training on the HCBS settings regulatory criteria.</p> |
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Country Ridge (RCAC)

Facility Description:

The facility is located in a small town in rural Wisconsin. Country Ridge is a Residential Care Apartment Complex that is in the same building as a NF. The setting has eight apartments, five are occupied by HCBS participants. The setting is in a residential neighborhood and the town has a couple of small shops and restaurants. The setting is licensed by Wisconsin and is part of the Trempealeau County Health Care Center. There was a misunderstanding based on information shared by the state regarding the presumptively institutional category in which the setting falls. Initially, it was thought by the state that Trempealeau County Health Care Center was a public entity; however, it was noted by the staff on site that the setting is privately owned. It should be noted the setting was submitted to CMS by Wisconsin as a Category 2 setting, but was miscategorized and is a Category 1 setting.

Site Visit Review Description:

There are two separate entrances to the facility; one for the RCAC and one for the NF. However, due to COVID, only one entrance is open where guests sign in, have their temperature taken, and put on a mask before proceeding with their visit. Following COVID screening, the site visit team was provided a conference room to review PCSPs. The site visit team reviewed lease/residency agreements which provide participants with necessary protections. The team also was provided a tour of the setting, interviewed two participants and two direct support staff in order to gather

² <https://www.medicaid.gov/federal-policy-guidance/downloads/smd19001.pdf>; see question 10

information about the setting. Each unit has a bedroom, living/kitchen area and bathroom. Participants can choose to eat in their apartments or the dining room, and can also keep food in their living units. Participants have personal belongings, televisions, and access to a phone in their apartment unit. Although the food for the setting is prepared in the NF kitchen, it is served in the RCAC dining room and participants can select from daily meal options and provide input to the menu. One participant reported the food is good on some days, and not on others, but he knows what to select when he sees the menu. He also indicated that he'd chosen this residence based on options he was provided. Participants are free to move about the setting and have the option of using the hairdresser that is available onsite. Additionally, there are recreational and art activities onsite that residents can choose to participate in. The following findings were noted through the course of the visit and through discussions with participants, staff, and the review of PCSPs.

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. | Participants leave with family members and participate in community activities such as eating out, going to church or shopping. However, if participants do not have family, they don't have access to the community if they need support to do so. Transportation is very limited due to the rural nature of the setting and the facility does not have a means of transportation. Activities are coordinated within the setting; however, those are limited as well. Participants indicated in interviews they would be willing to or would like to go out if there was support to do so. One participant indicated he sat and looked out the window all day. He was "retired" after sustaining an injury doing the farm work that he has participated in throughout his entire life. When asked, he noted he was not offered the opportunity to go outside for a walk or any other place outside of the setting. Staff noted there is no differentiation between settings concerning community integration. They do not assist participants in accessing the community; that is left up to family members. The two staff that were interviewed both noted they work between the NF and RCAC during the same shift. There is one staff person per shift to assist those in the RCAC setting |

| Regulation Citation | Regulation Language | Violation Finding Based on Site Visit |
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| | | <p>and one staff for the NF setting; those staff are interchangeable during the same shift.</p> <p>Country Ridge should ensure their model of service delivery aligns with the regulatory criteria to facilitate community integration. Establishing partnerships with community resources and leveraging existing community transportation options, including rideshare options, should supplement reliance on informal supports.</p> |
| 42 CFR 441.301(c)(4)(iv) | Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact. | <p>Participants cannot freely come and go from the facility. There is a staff present that must “buzz” the person in and out of the facility. Participants don’t have a key or code to get in/out independently. It was unclear if participants would be buzzed out when they asked and therefore it was unclear they can come and go freely at any time they choose. Staff noted a duty to keep people safe.</p> <p>Country Ridge should ensure their model of service delivery aligns with the regulatory criteria to facilitate independence and community integration.</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 noted that residents have keys to lock the doors on their unit/apartment, but all staff have master keys which they are assigned and take home with them.</p> <p>Country Ridge should evaluate their current practice of all staff having master keys, and staff taking keys home, to ensure that only appropriate staff have keys.</p> |

| Regulation Citation | Regulation Language | Violation Finding Based on Site Visit |
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| 441.301(c)(4)(vi)(C) | Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time. | Participants cannot freely come and go from the facility. There is a staff present that must “buzz” the person in and out of the facility. Participants don’t have a key or code to get in/out independently. It was unclear if participants would be buzzed out when they asked and therefore it was unclear they can come and go freely at any time they choose. Staff noted a duty to keep people safe. |
| 441.301(c)(4)(vi)(D) | Individuals are able to have visitors of their choosing at any time. | Visiting hours are posted and visitors must be buzzed in/out when staff available. Overnight guests are not permitted. Country Ridge should revise their current practice to permit individuals to have visitors at any time, including through the removal of the posted visiting hours and permitting overnight guests. |
| 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. | Modifications observed about locks, food, and visitors were not included in the participant’s PCSP. The Wisconsin Medicaid Agency and the entity responsible for ensuring 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 Ridge must implement the plan. |
| Additional Provision | Language | Violation Finding Based on Site Visit |

| Regulation Citation | Regulation Language | Violation Finding Based on Site Visit |
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| Staff Training on HCBS Setting Rule Criteria - State Medicaid Director Letter # 19-001 ³ | Description of how staff are trained and monitored on their understanding of the settings criteria and the role of person-centered planning, consistent with state standards as described in the waiver or in community training policies and procedures established by the state. | <p>There was no indication or evidence that staff have been trained on HCBS. Staff is shared between the RCAC and NF during the same day on the same shift and, of critical importance, did not understand the difference between institutional and HCBS settings, incorrectly noting that the difference in RCAC and NF is the amount of care an individual can receive in each setting.</p> <p>Country Ridge should ensure all employees have consistent and reinforced training on the HCBS settings regulatory criteria.</p> |

Clearview Community Group Home (AFH)

Facility Description:

The ranch style home is located on the campus of Dodge County Human Services. In addition to the group home, the campus has a large CBRF and a publicly operated NF located in a multi floor building that also houses county health and human services offices. Also part of the campus, but across the road, is a large NF and another group home owned/operated by Dodge County Human Services. The group home has three bedrooms and houses four male resident. The group home is accessed by a road behind the large CBRF/County building. The road extends past the home and exits onto a main state highway. Both entrances to the road have signs posted that say “Do Not Enter.” Staff reported the signs are posted to prevent people using the road as a cut through on county property. The group home has a large garage area entrance that has been remodeled to be a usable space. Staff report the space is used by staff and residents, as well as for a visitor area as participants are asked to not invite visitors past this area into the home. A ramp from the remodeled garage area goes up into the kitchen area which leads to a living room. There is a hallway leading to bedrooms and the bathroom. Although there is staff space in the remodeled garage, there is also a designated staff office area in the living room of the home. The house has a deck and large backyard that overlooks a public walking train in the distance. There is also a smaller deck on the front of the house that overlooks the highway and an airport landing strip. There are no sidewalks or any

³ <https://www.medicaid.gov/federal-policy-guidance/downloads/smd19001.pdf>; see question 10

stores/restaurants within walking distance. The group home manager is also the manager of the large CBRF and the NF. She is supervised by the NF administrator. The site visit team also drove to the setting which staff described as “work” for two participants. The setting is Green Valley Enterprises and is in an adjoining town approximately fifteen minutes from the residence. The signage indicates the setting provides habilitation and work training programs. The site visit team did not tour the setting, only drove to and observed from the outside as this setting was not part of the site visit schedule. A review of the website noted that the following services are provided within the same building: transition services to individuals between the ages of 18-21, summer camp and an after school program for students aged 12 and older, Special Needs Activity Program (SNAP), Birth to 3 Program, employment services, and Co-Packaging (piece-rate/subcontracted, supported work program for individuals with intellectual and developmental disabilities)⁴.

Site Visit Review Description:

Upon arrival to the setting, the site team met briefly with the home manager, reviewed PCSPs, took a tour of the setting and talked to residents and staff. The site visit team reviewed lease/residency agreements which provide participants with necessary protections. Staff noted that two of the residents were at work; however, upon further discussion it was noted that the participants were attending a day setting which is owned/operated by the same provider who operates the group home. Participants indicated they liked where they lived. The resident who shares a room said it was his choice to share his room and he and his roommate get along well. Staff indicated they do outings with the group when staffing permits. When there isn’t enough staff available to take residents on outings, if some want to stay home, either no one goes or residents staying behind go to another group home until the other residents return from the outing. Residents are not permitted to stay home alone. Staff indicated the meals are developed with the input of residents. The following findings were noted through the course of the visit and through discussions with participants, staff, and the review of PCSPs.

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 | Staff noted that residents were at “work”; however, it was later noted they were at a day setting which is |

⁴ <https://gveinc.org/>

| Regulation Citation | Regulation Language | Violation Finding Based on Site Visit |
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| | <p>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>owned/operated by the same entity that owns/operates the group home. Staff indicated staffing is an issue and impedes community integration. Staff also noted a walking path behind the group home but said it's too uneven and residents aren't permitted to use it. Integration in the greater community, including work opportunities, is not reflected in the person's life or the PCSP. Campus and agency activities do not suffice for community integration.</p> <p>Clearview should ensure their model of service delivery aligns with the regulatory criteria to facilitate community integration. Establishing partnerships with community resources and leveraging existing community transportation options, should be explored.</p> |
| 441.301(c)(4)(iii) | <p>Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.</p> | <p>Chemical restraints are noted in a service plan, but there was no behavior support plan included and the information did not meet the regulatory requirements for the restrictive intervention.</p> <p>Any restrictions such as the use of chemical restraints should be based on an assessment and incorporated in the person-centered plan. The entity responsible for ensuring the development of the person-centered service plan should ensure the plan is appropriately documented, and Clearview should ensure their model of service delivery aligns with the regulatory criteria to protect individuals' rights to privacy, dignity, respect, and freedom from coercion and restraint</p> |

| Regulation Citation | Regulation Language | Violation Finding Based on Site Visit |
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| 441.301(c)(4)(vi)(B)(1) | Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors. | <p>Although staff indicated there were not locks on doors because residents don't want them, it was noted that each bedroom door does have a lock and residents would like to have keys. One participant asked for a modified lock due to his ability to manage a lock with a key and another said he does lock his door when he is in his room alone.</p> <p>Clearview should ensure that all residents are able to lock their unit doors.</p> |
| 441.301(c)(4)(vi)(D) | Individuals are able to have visitors of their choosing at any time. | <p>Visiting hours are posted. It's requested that visitors call before coming over. As noted previously, there is a sign on both ends of the driveway that says Do Not Enter which may keep visitors away. Staff also don't encourage visiting in the individuals' rooms. The setting has a converted garage workplace/activities room/staff room where most people visit. The setting also has quiet hours between 10 and 6 and residents are not allowed to have overnight guests.</p> <p>Clearview should revise their current practice to permit individuals to have visitors at any time, including through the removal of the posted visiting hours, permitting visitors in individual units, and permitting overnight guests.</p> |
| 441.301(c)(4)(vi)(C) | Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time. | Both participants and staff indicated that snacks/food is earned either through good behavior or determined by staff based on diet. Staff indicated that no one in the house is ordered a special diet or has chosen to accept a special diet. One participant indicated he wasn't allowed to have |

| Regulation Citation | Regulation Language | Violation Finding Based on Site Visit |
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| | | <p>the kind of soda he likes because staff noted he acts different when he drinks it. To get another kind of soda he likes, he must “earn” it but it was unclear what behavior earns and/or deprives him of this alternative soda that he can get at the end of the day. The manager described this as a positive reward program providing something the individual normally cannot have as a reward for positive behavior. It was unclear why the “reward” was not otherwise available to the individual.</p> <p>Any restrictions such as the use of chemical restraints should be based on an assessment and incorporated in the person-centered service plan. The entity responsible for ensuring the development of the person-centered service plan should ensure the plan is appropriately documented, and Clearview should ensure their model of service delivery aligns with the regulatory criteria to protect individuals’ rights to privacy, dignity, respect, and freedom from coercion and restraint</p> <p>Clearview should revise its model of service delivery to ensure individuals have access to food at any time, unless there is a documented reason, described in the person-centered service plan, for any restrictions.</p> <p>See findings described above for issues that must be addressed in order to comply with the portion of this criterion requiring that individuals have the freedom and support to control their own schedules and activities.</p> |

| Regulation Citation | Regulation Language | Violation Finding Based on Site Visit |
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| 441.301(c)(4)(vi)(F) | Any modification of the additional conditions, under §441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan. | <p>Modifications to the rule were noted around locks, food, use of chemical restraints and visitors; however, no documentation of modifications per rule are noted in the PCSP. In addition, the restriction of access to food items used as “rewards” noted in the citation above were not documented in the plans.</p> <p>The Wisconsin Medicaid Agency and the entity responsible for ensuring the development of the person-centered service plans 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 Clearview should ensure that all modifications for a specific individual incorporated into the plan are followed.</p> |
| Additional Provision | Language | Violation Finding Based on Site Visit |
| Staff Training on HCBS Setting Rule Criteria - 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. | Staff appeared well versed in the language regarding community integration; however, the setting did not reflect what the staff reported because staff were applying the terms community and community integration to the settings on campus and/or to the agency’s facilities. For example, staff noted community integration as “work” at the day program or community “outings” on the setting campus. |

⁵ <https://www.medicaid.gov/federal-policy-guidance/downloads/smd19001.pdf>; see question 10

| Regulation Citation | Regulation Language | Violation Finding Based on Site Visit |
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| | | Clearview should ensure all employees have consistent and reinforced training on the HCBS settings regulatory criteria. |

Orchard View Terrace (CBRF) Facility Description:

The setting is located in a very rural area of Wisconsin which is primarily farmland. Orchard View Terrace is located in a three story building that is attached to a nursing facility (NF). The entrance is located on the main, or first floor. The entrance is unlocked, and unattended by staff. Suggested visiting hours are posted, but not enforced. The first-floor houses facility equipment (furnace, boiler room, maintenance area, etc.), storage, restrooms, and staff areas. The second floor contains the assisted living setting and the third floor is a memory care unit; both are CBRFs and both were toured by the site visit team. However, the memory care unit was not a designated setting for the site visit. The focus of the Orchard View Terrace site visit was the assisted living setting on the second floor.

Site Visit Review Description:

Upon arrival, the site visit team reviewed person-centered service plans (PCSPs) made available by both the state and the provider. The site visit team reviewed lease/residency agreements which provide participants with necessary protections. The entire team was provided a tour of the facility. State staff were unable to attend the site visit. The site visit team conducted conversational interviews with two direct support staff, and two participants who receive services at the facility. Staff indicated public transportation is available for participants to access the community, and the setting coordinates group outings to the community and activities within the setting. The memory care unit has delayed egress at the elevator. A code must be entered prior to pushing the elevator button, otherwise an alarm sounds; staff has the code to shut off the alarm. Since the setting is geared toward those who are retired, there was no one at the setting who was currently working. However, it was noted that one participant wanted to return to work as a farmhand. Staff and his case manager were working through transportation issues to assist him with his desire to work. It was also noted that other residents volunteered. The setting had visiting hours posted, but the setting did say that they were suggested hours. The site visit team didn't confirm if the entrance doors to the building were locked outside of the posted visiting hours and individuals could come and go; the state should clarify that. Through the course of the interviews and tour, the site visit team noted compliance with all settings criteria except those which are listed in the findings below.

Findings of Site Visit:

| 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 setting had visiting hours posted, but the setting did say that they were suggested hours. The site visit team didn't confirm if the entrance doors to the building were locked except during the posted visiting hours and individuals could come and go; the state should clarify that.</p> <p>Orchard View Terrace should ensure that any information suggesting restricted visiting hours is removed, and the building can be accessed by visitors at any time.</p> |
| Additional Provision | Language | Violation Finding Based on Site Visit |
| Staff Training on HCBS Setting Rule Criteria - 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>Staff indicated they received training associated with working in a CBRF and noted participants in the CBRF have more freedom to come and go, and participate in their care than those residing in a NF; noting the CBRF is a “homelike” setting. However, there was no evidence of HCBS staff training on the settings rule criteria.</p> <p>Orchard View Terrace should ensure all employees have consistent and reinforced training on the HCBS settings regulatory criteria.</p> |

Dove Healthcare- Osseo Assisted Living (RCAC)

Facility Description:

The setting is located in rural Wisconsin and currently serves four HCBS participants. Dove Healthcare is located in a building that is also a NF. It should be noted that it is new to Wisconsin's HCBS system. The building is newly constructed in the last few years, is well manicured, clean, and modern. The assisted living setting has both studio and one-bedroom apartments with private bathrooms and full kitchens.

²<https://www.medicare.gov/federal-policy-guidance/downloads/smd19001.pdf>; see question 10

Site Visit Review Description:

While on site, the team reviewed PCSPs, interviewed three direct support staff, two participants, and other non-HCBS residents. The site visit team reviewed lease/residency agreements which provide participants with necessary protections. It was noted that participants are free to move about the setting as they choose, coming and going with family or friends, to medical appointments and social outings. Activities are coordinated by the recreational coordinator both onsite and out in the community. Public transportation options are posted within the setting and assistance to coordinate transportation is provided when needed. Participants are at the age of retirement, but some participate in volunteer activities, including church and other community activities. Meals are served in a central dining room and residents have a choice of menu items for each meal. Snacks, juice, and water are available at all times in the dining room, and residents can shop for food and cook in their apartments or keep snacks as they choose. Each apartment door has a lock, with the resident and only appropriate staff having a key. Staff noted they knock and wait to be invited in prior to entering anyone’s apartment. Laundry is available onsite and is offered as a service if residents choose or cannot do their own laundry. Medications are delivered to each resident and administered in the privacy of their apartment. If requested, medication can be provided in the dining room with meals. A participant invited the site visit team in to see her apartment. It was decorated to her taste with her personal belongings. The site visit team was also provided a tour of the setting, along with viewing an empty apartment. No modifications to the settings rule were noted. Participants noted being offered options prior to choosing the setting, or having family members help them select the setting. Staff who were interviewed noted they have been trained to work in both the assisted living and NF. Although staff are cross-trained between the two settings, staff are not shared during the same shift. Staff also noted that it is infrequent that they work in the NF, only when a shift needs to be covered. The following findings were noted through the course of the visit and through discussions with participants, staff, and the review of PCSPs.

Findings of Site Visit:

| Additional Provision | Language | Violation Finding Based on Site Visit |
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| Staff Training on HCBS Setting Rule Criteria - 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. | Staff indicated they receive initial and annual training on various topics, but were unaware of the settings rule or settings criteria by name. However, staff did recognize the setting is “supposed to be homelike” and different from the NF. |

⁷ <https://www.medicaid.gov/federal-policy-guidance/downloads/smd19001.pdf>; see question 10

| Additional Provision | Language | Violation Finding Based on Site Visit |
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| | | Dove Healthcare- Osseo Assisted Living should ensure all employees have consistent and reinforced training on the HCBS settings regulatory criteria |

St. Anne’s Salvadorian Campus (CBRF)

Facility Description:

The facility is located in urban Milwaukee. The building houses Mission Court (twenty-six apartments) and Providence Court (fifty apartments), which are settings where HCBS is provided, a NF, and a short-term rehabilitation center. The site visit team focused on Mission Court and Providence Court noting that each setting is on either end of the campus. Both house seniors, with support in Providence Court for those who require memory care. Both settings have dining areas, activity rooms, and library areas. Although each unit has a bathroom, there is a shared room where bathing support can be provided by staff; the room also has a whirlpool for therapies. There is a large fenced in courtyard behind the facility. There is a walking path, covered pavilion, benches, and fountains. Residents from the campus access the courtyard as they choose. The facility uses the space for parties, concerts, and picnics for residents, and inviting families and community members to participate as well.

Site Visit Review Description:

The site visit team arrived through the main entrance and completed COVID screening prior to adjourning to a conference room to review PCSPs. The setting administrator provided the team with a tour of the facility. Direct support staff and participants were interviewed during the visit. Participants invited the site visit team into their apartments and participated in conversational interviews with the team. It was noted during interviews that participants chose the setting from options presented to them, or their family assisted in choosing the setting. Apartments were decorated with personal belongings and family pictures. Participants described going shopping, out to eat, and on visits with family members when desired. Public transportation is available and staff assist with coordination when needed. Staff and participants indicated that food is available in the dining room, but they can eat in their apartments if they choose. Options are available at each meal and can be served at other times if participants are not available during mealtimes. Participants can also keep food in their rooms. There is a grocery store (Sentry) across the street from the setting that participants often walk to and shop. If needed, staff can go to the store for residents. Each participant has a key to their apartment with only appropriate staff have access to a master key. Staff indicated they knock and receive permission prior to entering any apartment. If participants indicate they cannot come in, staff check back at a later time. Medications are administered privately in the person’s apartment, or if desired by the participant they can be administered at mealtime in the dining area. Staff noted that several residents volunteer in the community, although all are retired and choose not to work. The setting offers weekly Mass as well as other denominational worship services

that residents can choose to attend. Participants also leave the setting to attend church services outside of the setting with family and friends. Some residents have cars and provide transportation to other residents to go to church, shopping, or attend other community activities. The site visit team reviewed lease/residency agreements which provide participants with necessary protections. Both staff and participants indicated that participants determine what activities they participate in daily, including directing the services they receive, and their daily schedule. One participant indicated that staff is somewhat limited and she often waits for an aide to become available to assist her with personal care. The policy reflects, and staff and participants reported, that visitors are welcome at any time. Participants can have overnight guests and family/friends are encouraged to dine with the participant. Participants have private rooms, but can have a roommate if they choose. There were no indications of restrictions or modifications to the rule identified through the review of PCSPs or through interviews with participants or staff. It should be noted that during the site visit, the team determined that although there are many opportunities for community integration and choice for participants, this information isn't included in the PCSPs. Looking at the PCSPs solely without interviewing staff, participants, or visiting the setting, it would be unclear that the setting is home and community based and/or that the PCSP was developed to reinforce an individual's integration into the larger community. The following findings were noted through the course of the visit and through discussions with participants, staff, and the review of PCSPs.

Findings of Site Visit:

| Additional Provision | Language | Violation Finding Based on Site Visit |
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| Staff Training on HCBS Setting Rule Criteria- 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. | Staff noted training in various areas, and also noted they understood that participants residing in the RCAC have access to the community and should be encouraged to be independent. No training specific to HCBS settings rule criteria was noted during the onsite visit. St. Anne's Salvadorian Campus settings should ensure all employees have consistent and reinforced training on the HCBS settings regulatory criteria |

⁸ <https://www.medicaid.gov/federal-policy-guidance/downloads/smd19001.pdf>; see question 10