



# Home and Community Based Services (HCBS) Final Rule Heightened Scrutiny Evidence Packet

**Provider Name: Goodlife Innovations Inc.**

**Assessment Id: 246**

**Setting Id: 343**

**Date of Heightened Scrutiny Assessment: 2/24/2023**

## **Heightened Scrutiny Category**

Category 3: Any other settings that have the effect of isolating individuals receiving Medicaid home and community-based services (HCBS) from the broader community of individuals not receiving Medicaid HCBS.

## **Ability to Remediate or Necessity to Transition**

Site is able to remediate all items.

## **General Summary of Site Information**

This setting is an I/DD day & residential service program located in a suburban apartment setting that provides supports and supervision for I/DD waiver participants. The individuals interviewed are on the I/DD waiver and receive day and residential services through Goodlife Innovations Inc. There are no restrictive structures at this location that would prevent the individuals served from leaving the property. The individuals served can go out into the community when they choose, and the staff will provide transportation as needed to ensure that individuals served have access to the greater community and preferred activities at the time of day of their choice. This setting supports full access for the individuals served to have opportunities to seek employment and work in competitive integrated settings if it were desired by the



Individuals served both individuals interviewed have competitive jobs in the community that they chose based on personal preferences. Individuals at this setting can utilize resources to their liking however they see fit. Individuals served have a PCSP that considers individualized preferences and is updated yearly or as needed through a meeting with the individuals served, the provider, and the individual's support team (TCM, CC, etc.).

The staff at this setting provide support and supervision as needed regardless of funding. There are several activities planned daily at this setting that are out in the community and within this setting. The individuals served can choose how and when they spend their day and what activities they participate in. The staff give the individuals several options and choices throughout the day based on the individuals served personal preferences and let the individuals make their own decisions and choices. They can have any visitors of their choosing and a private area is provided for them to utilize at their leisure. The bathroom and bedroom can be locked to ensure privacy if desired. The individuals served can go anywhere within the home and outside of the home whenever they want with accommodations from staff for safety as documented in the individual's PCSP as needed. This setting is physically accessible to ensure independence when needed and to offer extra supports. Individuals served have access to all areas of the setting and can utilize appliances as desired. Access to food is not restricted and individuals can choose their daily routines/activities including when, where, and with whom they eat.

The Heightened Scrutiny team conducted an onsite assessment of the setting. Two individuals served, two direct support staff members, and two supervisors were interviewed to determine the level of understanding of HCBS and the Final Rule Settings Rule requirements and/or characteristics. Throughout the interview process it was made apparent these characteristics are taught to those who live and work there and maintained through quality assurance processes. It was observed that staff are respectful to those who reside at this setting. Interactions throughout the interview process and in general between individuals and staff were interpersonal, genuine, and apparent that they regularly interact. It was noticed that individuals served do not hesitate to speak to necessary parties about anything they would like to do and/or change about current circumstances. If individuals were to want to change anything about their services/setting the team would meet to ensure that changes were discussed and that they were implemented in a manner that would enable the individuals served to continue to receive services and supports in a person-centered manner.

Though this setting has been flagged for having characteristics of isolation, after further review it has been determined that it is independent of any presumptive institutional like characteristics. The setting provides home and community-based services through the implementation of policies and procedures with staff and waiver participants. Individuals at this setting are afforded the same rights, privacy, choices, autonomy and community access as their neighbors and others not being served by Medicaid. This setting is not in a gated community and the individuals served is able to move about freely.



### **State Requirements for Providers:**

Providers are required to comply with Kansas' home and community-based waiver regulations and provider mandates within the regulations, as well as other policies and procedures regularly updated to ensure compliance with home and community-based requirements. Kansas will require providers, based on pending revisions to existing regulations to follow this language. The term "Home and Community-Based Settings" as used in these regulations shall mean a set of qualities, as described in 42 C.F.R. § 441.301 (c) (4), that describe how settings deliver services to ensure the utmost integration into the community. The setting must allow residents full access to the greater community, including the opportunity to seek employment, engage in community life, control personal resources to the same degree of access as individuals not receiving home and community-based services. All HCBS participants will have a person-centered service plan based on the individual's preferences and choice, including a residential setting that is available in a non-disability setting. Settings must ensure an individual's right of privacy, dignity and respect, as well as optimizing, but not regimenting, individual initiative or autonomy in daily living activities, the physical environment and with whom the residents interact with.

If the facility is provider-owned or controlled then, in addition to providing the settings characteristics described above, the facility must provide residents a physical space that can be owned, leased or rented and must provide eviction protections under Kansas Landlord-Tenant law at a minimum. If the Kansas Tenant law does not apply, a written agreement (negotiated service agreement) that contains protections for evictions is required.

Settings must provide residents privacy in sleeping units, including units with entrance doors lockable by residents and with only appropriate staff having keys to their doors. Residents have the freedom to decorate their room as they please and have the freedom to control their schedules and access to food. Residents have the freedom to have visitors at any time and any restrictions must be documented in an approved person-centered plan.



## **Pre-Assessment Preparation Process with Provider**

General heightened scrutiny guidance sessions are available to stakeholders, in addition to specific trainings for settings identified as having the presumptive characteristics of an institution and/or potential isolation to prepare organizations for the assessment. A member of the HCBS Compliance Team contacts the organization's identified persons to schedule an assessment. Depending on the assigned level of heightened scrutiny, a virtual walk-through and interview of management staff might be required. During the site visit outreach, the HCBS Compliance Team Member discusses what level of technology is needed to have the most effective outcome of the time. If a virtual visit is the chosen option, a member of the HCBS Compliance Team will need a walk-through by use of a camera, an internet connection, a way to transfer files, and a method for agency staff and the persons served/guardians to communicate with the Heightened Scrutiny Team Member during interviews via video, telephone, etc.

## **Interview Standards for Provider and Interviewees**

Interview standards are set prior to the assessment and discussed with Providers. A statement is read to the interviewees before each survey to guard against staff influence. HCBS Team Members further advise that no one will be forced to participate in interviews and that they are completed in an hour or less. The following is a list of additional steps taken by the state to mitigate the influence of persons served responses during the heightened scrutiny assessment.

1. The use of a camera is required during the assessment for observations of the surrounding environment and to validate compliance of assessment questions where needed.
2. Requests are made for private interviews with persons served. Exceptions will be given in situations when individuals are extremely nervous or non-verbal. In such cases, additional supports can be provided in the interview room. However, responses from the individual must be taken without interference from the support person. For non-verbal individuals, the interviewer observes non-verbal cues during the meeting to assure the absence of influence.
3. The state uses a two-way communication method via the HCBS Compliance Portal/emails to educate provider staff about the interview and assessment standards. This line of communication allows Providers to raise questions prior to the site visit and to provide any additional evidence documents.
4. State staff do not provide interview questions prior to the site visit. Interviewees are not able to know what will be asked during the assessment to guard against providers and/or supports having the opportunity to prepare an interviewee before the assessment.



## Additional Heightened Scrutiny Assessment Standards

In addition to the heightened scrutiny process, providers are required to submit policies and procedures for evaluation by the state through validation and desk reviews outside the heightened scrutiny process. Through the remediation process, the state will review a Provider's current training, policies, manuals, and procedures for HCBS characteristics and requirements. When these requirements are not present or insufficient at the Provider level, they are required to submit a remediation plan with a projected completion date. Providers who go through the heightened scrutiny process are required to comply with all aspects of the settings final rule and prove capability of overcoming the presumptions of institutionalization. Additional documentation reviewed for compliance include a participant's lease/residency agreement or service agreement, provider manuals, policies, handbooks and training processes and documentation.

Remediation Plan				
Please indicate the setting's compliance with the following areas. The provider is responsible for creating a remediation plan for each rule indicated out of compliance and the expected date of that plan's completion.				
Section	Compliant?	Explanation of Compliance and Overview of Remediation Plan	Provider Remediation Plan	Projected Completion Date
<u>Inclusion and Community Access</u>	Yes	Setting is not isolating in nature. Individuals-served have access to the greater community the same as non-disabled peers. Individuals participate in activities and follow their own daily routine as desired by individual.		



<p><b><u>Autonomy and Choice, Setting Selection</u></b></p>	<p>Yes</p>	<p>Individuals chose to receive services in this type of setting with the assistance of family and support network. Individuals get to go through a roommate selection process that is similar to the process utilized by apartment complexes that assist with roommate selection. The selection process allows roommates to be matched based on similarities. Roommates have the option to participate in meet &amp; greet activities before agreeing to room together to ensure that they both feel it is a good fit. Individuals and their team meet no less than 1 time yearly to discuss service options.</p>		
<p><b><u>Rights of Privacy, Dignity, Respect, and Freedom From Coercion and Restraint</u></b></p>	<p>Yes</p>	<p>Individual's rights to privacy, dignity, respect and freedom from coercion and restraint are well represented in the current setting. Individuals have complete control over their routine and daily activities. Provider is respectful of individual's wishes and makes necessary accommodations as needed to ensure that individual's right are respected and that individuals feels loved and safe in their current setting. No evidence of coercion or restraint is identified.</p>		



<p><b><u>Autonomy and Choice,</u></b>  <b><u>Planning and Life</u></b>  <b><u>Choices</u></b></p>	<p><b>Yes</b></p>	<p>Individuals are included in daily, weekly, and annual planning meetings to ensure that their choices are fully represented in the setting. Meetings take the form of roommate meetings, PCSP meetings, and weekly group meal where activity ideas are discussed and planned. If individuals do not want to participate in a particular activity they can choose to spend their day as they desire. If they want to participate in a different activity at the same time as a group activity staff will assist them with planning to ensure that the activity can be participated in. They do have a 24-hour notification requirement that states individuals-served must attempt to notify staff at least 24 hours in advance of activities to ensure that the provider is able to assist individuals served with accessing preferred activities.</p>		
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<p><b><u>Autonomy and Choice, Choices Regarding Services and Supports</u></b></p>	<p>Yes</p>	<p>Individuals participate in weekly &amp; annual meetings at minimum to discuss personal preferences &amp; choice. They are educated on how to advocate for their choices by staff and are encouraged to speak out regarding their personal choices/preferences. Staff were witnessed to be very encouraging with individuals-served when assisting them with making choices as evident in praising individuals for advocating and discussing how they (staff) can assist the individual with obtaining supports/services they are needing.</p>		
<p><b><u>Staff Training in HCBS and the Final Rule</u></b></p>	<p>Yes</p>	<p>Provider is well versed in final rule as evident in having policy and procedures in place that protect the individuals served rights and ability to make choices freely with dignity and respect. Provider has implemented a new Final Rule training program that is included in the required staff trainings. Staff and individuals served are aware of Final Rule and how this impacts service delivery.</p>		





<p><b><u>Presumptively Institutional Settings</u></b></p>	<p><b>Yes</b></p>	<p>C3 HS interview conducted due to individuals choosing to receive residential services in a setting that has 5 or more settings that serve individuals with disabilities. No institutional like setting was evident during interview.</p>		
<p><b><u>Settings that Isolate HCBS Beneficiaries</u></b></p>	<p><b>Yes</b></p>	<p>C3 HS interview conducted due to individuals choosing to receive residential services in a setting that has 5 or more settings that serve individuals with disabilities. No institutional like setting was evident during interview.</p>		
<p><b><u>Final Section</u></b></p>	<p><b>Yes</b></p>	<p>The setting does not have the qualities of isolation and does have the qualities of a home and community-based setting.</p>		



## Summary

1) To be completely compliant with the settings rule, the provider is required to be compliant with all the non-heightened scrutiny areas of the self-assessment. However, in addition to the findings documented above, the state was able to verify the following through the HS process.

**(a) Paid Employment, Volunteer Opportunities**

(i) Interviews confirmed that residents have access to paid work and/or volunteer work if desired. Staff are readily available to assist with obtaining and accessing opportunities for work on an individualized level.

**(b) Access to Additional Education**

(i) Persons-served confirmed that the setting accommodates individual needs in accessing additional education per individuals' interest.

**(c) Rights and Access to Vote**

(i) Persons-served are provided training on resident rights including the right to vote. Leading up to election time, staff educate residents on their rights to vote, explanation of the voting process by arranging for an absentee ballot and/or transportation to a voting site. Staff offer residents resources that provide education of candidates.

**(d) Access to Funds and Ability to Choose How Spent**

- (i) All funds are managed by the individual, their family or a designated payee. They receive their funds and can be spent how they choose.
- (ii) The provider allows for the member to elect to have a trust account. The individual can withdraw funds at their convenience and purchase what they choose.

**(e) Restraint and Seclusion**

(i) Persons-served verified that there is no use of restraint or seclusion at this setting.

**(f) Dating**

(i) Persons-served are supported in dating if they so choose.

**(g) Leasing**

(i) Persons-served are provided with a legal agreement that outlines the regulations for intent to vacate as well as processes required for termination of lease based on the guidance of the Kansas Landlord-Tenant law.

**(h) Choice of Provider and Services Provided**

(i) Persons-served confirm that they had a choice in whom provides services and the services received. All interviewees are educated on the steps to make changes to services and/or providers.



***Public Comments Summarized***

<public comments will be added after the evidence summary is published for public comment>