



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

Provider Name: Mosaic of Garden City

Assessment Id: 3997

Setting Id: 4483

Date of Heightened Scrutiny Assessment: 3/21/2023

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

Boardwalk Estates is a disabled low-income housing apartment subsidized by the federal governments HUD. Setting is a two-bedroom, 1 bathroom home surrounded by other residential homes. The individual residing here receives residential services through Mosaic of Garden City. There are no restrictive structures at the homes entrances that would prevent the individual served from leaving the property. The individual served can go out into the community when they choose. This setting supports full access for the individual served to have opportunities to seek employment and work in competitive integrated settings. Individual served at this setting can utilize resources to their liking however they see fit. Individual is provided a lease agreement that protects them from being evicted or force to move out. Individual served has their own PCSP that considers their individualized preferences, and they are updated yearly or as needed.

The individual lives in a two-bedroom home where staff come by weekly. The individual can choose what time the staff arrive and what services the staff provide. The entrance door can be locked by the individual. All who visit to include staff, are required to knock on individual served door prior to entering the individual's personal home. The home is accessible to the individual served, and they can move around freely. The individual served decides when and who visits and the duration of their stay. This home consists of two bedrooms, one bathroom and personal living space to include a full kitchen. The kitchen is equipped with full size cooking appliances that individual served can access when desired. The member is free to decorate all areas of their home to their liking. Individual served has access to laundry facility located in the complex.

The Heightened Scrutiny team conducted a virtual assessment of the setting, utilizing a laptop with webcam and Microsoft Teams. One member served, and one direct support staff member were interviewed to determine the level of understanding of HCBS and the Final Rule Settings Rule requirements/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 residents do not hesitate to speak to necessary parties about anything they would like to do and/or change about current circumstances.

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 who reside at this setting are afforded the same rights, privacy, choices, autonomy and community access as their neighbors and others not being served by Medicaid.



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
		The individual served interview mentioned only being at this setting the beginning of March 2023. Individual served has gone shopping at Goodwill, attends church, going out to eat at Wendy's, Arby's, McDonald's, KFC, BBQ place and Mexican place. Individual served has also been to Hobby Lobby, grocery shopping, eaten breakfast at Day Light Donuts, and IHOP. Individual served reported being transported to community activities by staff in agency van. Individual served reported not	N/A	



**Inclusion and
Community Access**

Yes

feeling isolated from the community outside since moving into this setting. Individual served not currently working but has approached job coach about the possibility of working out in the community; would like to work at Casey. Individual served indicated they made the choice to work.

The staff interview reported individuals are transported in company van, people in the community take some individuals places, or individuals get to community activities by way of public transportation. Staff member mentioned individuals have a choice to participate in community activities to include going to movies, YMCA, Rec Center, bowling, coffee shop, sporting events at Garden City Community College, parades, city festivals, Home & Garden show, Food Truck Fridays, library, grocery shopping at Kroeger or Walmart, shopping at Target, Home Depot, Dollar Tree, Old Navy and Five Below, going out to eat, going to gymnastic place and attending Tumbleweed Festival. Staff member reported individuals are given options of attending activities to ensure they are integrated into the community and do



		not experience isolation. Individuals have an opportunity to work out in the community if they wish.		
<u>Autonomy and Choice, Setting Selection</u>	Yes	<p>The individual served interview reported making the choice with input from mom and stepdad to receive services from Mosaic of Garden City. Individual served was aware of person-center plan since these were done at Pawnee setting.</p> <p>The staff interview reported that individuals have a person-centered plan, and they are updated yearly or as needed. The staff also confirmed the choice to receive services from Mosaic of Garden City is left up to the individual or input from guardian if individual does not have the capability to make decision on their own.</p>	N/A	
		The individual served interview reported feeling they have all the privacy that they need. Individual served mentioned not having a roommate nor wanting one. Individual served can lock the front door and close the doors to the other rooms in the home. Individual served can talk on the phone and visit with others in the privacy of their home. Individual served indicated staff knocks on the door prior to entering their home. Individual served	N/A	



<p><u>Rights of Privacy, Dignity, Respect, and Freedom From Coercion and Restraint</u></p>	<p>Yes</p>	<p>reported the setting is physically accessible for them to get around. Individual served reported being treated with dignity and respect and has total control of their choices.</p> <p>The staff interview reported that individuals live on their own and that they are allotted all the privacy they desire. Staff member reported landlord has a key to individuals' apartments, staff do not have keys. Staff only has access to individuals place if with individual. Staff member reported settings are physically accessible for all individuals. Staff are trained on respect, dignity, and coercion to ensure individuals are treated with respect and dignity and free from coercion regarding their choices.</p> <p>All interviewed confirmed that the resident is free from restraint, seclusion, and coercion.</p>		
		<p>The individual served interview reported making their own schedule and deciding what, when and how to spend their time. Individual served can come and go as they pleases and does not have a curfew. Individual served reported to having free access to all areas inside and outside</p>	<p>N/A</p>	



Autonomy and Choice,
Planning and Life
Choices

Yes

whenever they want. When individual served wants something to eat, they can access the kitchen. Individual served can choose to eat whenever or whatever they want. Individual served mentioned having full access to laundry facility in the complex. The individual served reported having a choice in who comes to their home and how long they stay, including staff. The individual served reported having a lease agreement that protects them from being evicted or forced to move out.

The staff member reported individuals get to make their own schedules. The staff member indicated individuals are free to come and go as they please and do not have a curfew. Individuals have free access to all areas inside and outside whenever they want. Individuals have access to a full stocked kitchen. Staff member reported individuals can choose to eat whenever, whatever they want, and with whom. Individuals have full access to a laundry unit in the complex or staff will take them to laundry mat if they want. Individuals are free to have visitors and choose what time staff come to see them. Staff member agreed individuals



		have a lease or other legal agreement that protects them from being evicted or forced to move out.		
<u>Autonomy and Choice, Choices Regarding Services and Supports</u>	Yes	<p>The individual served interview made it apparent that they are in control of their choices. Individuals can choose who provides services, where they receive services and was able to explain the process to request changes to their services if needed.</p> <p>The staff interviewed reported that individuals are in control of their own choices. Staff member agreed individuals can choose their services and who they receive the services from.</p>	N/A	
<u>Staff Training in HCBS and the Final Rule</u>	Yes	The staff interviewed made it apparent that during the initial training period different characteristics of the Final Rule are discussed. These characteristics include resident's rights, autonomy, and choice	N/A	



<p><u>Presumptively Institutional Settings</u></p>	<p>Yes</p>	<p>The setting has been flagged for having characteristics of isolation and meets the definition of a Category 3 Heightened Scrutiny Setting. Though there are presumptions of isolation the setting, policy and procedure, processes and interviews verify the setting ensures these presumptions are overcome and Final Settings Rule requirements are met. Policies and procedures are unique to the setting and Home and Community Based characteristics. Individuals are active in the planning of their daily lives and afforded many opportunities to be as independent as possible while still having their needs met.</p>	<p>N/A</p>	
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<p><u>Settings that Isolate HCBS Beneficiaries</u></p>	<p>Yes</p>	<p>Individual served and staff verified policy and procedure is implemented as written to ensure individuals not only actively participate in the daily choices to go into their daily/lives, but that staff assist with providing alternative options and work with individuals to accommodate their preferences.</p> <p>It is evident that the setting is person-centered. Those that work here are educated on the resident's rights and personal needs. The resident has control of their choices and is provided all options for consideration when making life choices.</p>	<p>N/A</p>	
<p><u>Final Section</u></p>	<p>Yes</p>	<p>The setting does not have the qualities of isolation and does have the qualities of a home and community-based setting.</p>	<p>N/A</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>