

## Commonwealth of Virginia

### Heightened Scrutiny Evidence Package

As required by 42 CFR 441.301 (c) (5) the Commonwealth of Virginia submits the request for CMS heightened scrutiny review.

#### Setting Information

<b>Provider Name: Eggleston Services</b>	<b>Setting Name: Civitan Day Support</b>
<b>Setting Address: 2210 Cedar Road, Chesapeake VA 23323</b>	<b>Type of Setting: Group Day Support</b>
<b>Number of people served at the setting: 35</b>	<b>Number of individuals reviewed: 9</b>

#### Waiver Service Information

Individuals in this setting use one of the three (3) DD Waivers available in Virginia.

Community Living (CL Waiver)

Family and Individual Supports Waiver (FIS)

Building Independence Waiver (BI)

#### Heightened Scrutiny Criteria Met

Prong 1: Setting is in a publicly or privately operated facility that provides inpatient institutional treatment.

Prong 2: Setting is in a building on the grounds of, or adjacent to, a public institution.

Prong 3: Setting has the effect of isolating individuals from the broader community.

#### Section One

Onsite Visit Observation and Assessment

Date(s) of onsite assessment and review: September 29, 2021

State Agencies that Conducted the Onsite Visit: Department of Medical Assistance Services (DMAS) and the Department of Behavioral Health and Developmental Services (DBHDS)

Number of State Agency Representatives who Completed Assessment: Five; 2 representatives from DMAS and 3 representatives from DBHDS

Description of Setting:

Setting is located on a 14 acre property alongside Civitan Group Home and Civitan Summer Camp. The site also provides community engagement services. The Summer Camp consists of 5 cabins and a home for summer camp counselors. Individuals who attend the day support have the option to participate in the summer camp. Camp occurs for 8 weeks in the summer. Camp Counselors are volunteers from all over the world through the Camp America Program. The property has a swimming pool, baseball/soccer field, and accessible playground as well. Nearby places include Walmart, Wendy's, Taco Bell, Grassfield High School, Creekwood South Park, Deep Creek Park, Great Dismal Swamp and 7-11. The City of Chesapeake is a 10 min. drive away. Outings include shopping at Walmart, Dollar Tree, Five Below, out to eat, YMCA Camp Grom trips, Bowling, Beaches, movie theater, visit other Eggleston sites like Tanner Creek or Tidewater Drive, Crazy Buffet, and Sugar Plum Bakery.

The campus style setting is fenced in and is located outside of other residential areas and business areas. The day support setting has a large room for support activities. The state team did make note that there are not bathrooms in the day support building. The bathrooms are located outside of the building a short walk down a covered walkway.



*Evidence included: interviews with staff and individuals, review of pictures, and an in-person tour completed on 9/29/2021.*

## Section Two

### Evidence of Community Access to the Same Degree as Someone Who Does Not Utilize HCBS Services

Prior to the COVID-19 pandemic, individuals participated in volunteer activities such as meals on wheels and adopt a spot. Staff do encourage individuals to interact with members of the community on outings. The site also hosts Challenger Little League for school age children with disabilities. The Boy Scouts do list the site as an approved campsite for the Boy Scout Troops. To leave the campus requires use of the Vans, though sometimes individuals do walk in the residential neighborhood across the street. Activities were documented in daily notes. Eggleston's policies, job descriptions, and staff training have a big emphasis on community integration. There is a community integration policy and staff must sign a form for expectations of staff assigned to community experiences. Outings and activities tend to be individualized and occur 2-3x a week. Community supports are appropriately documented in the ISP. Staff stated the individuals at day support do require staff support to access the community.

*Evidence: Provider's Community Integration Policy, Provider's Home and Community Based Services Policy, Person-Centered Plans, Quarterly Person-Centered Reviews, Daily Progress Notes, Interviews with staff and individuals.*

### Section Three

#### Evidence of Privacy, Autonomy and Independence

The outside area of the program is fenced in and could be accessed by the individuals for privacy as well. The bathroom did not contain stall doors, it did contain shower curtains and the bathrooms are outside of the day support building. Staff do report that the summer camp cabins are available for privacy, as needed.

*Evidence included: interviews with staff and individuals, daily progress notes, in-person tour completed 9/20/2021, Provider Home and Community Based Services Policy- Modification section.*

Individuals are able to express choices of services on a daily basis, which are determined during intake. According to staff, there is a 60 day assessment period which gathers additional information and focuses on individual preferences. The person centered plan is used as a guide for daily activities, and allows the individuals to choose which activities to participate in. According to staff, the activity calendar posted in the lobby lists monthly community outings. The groups develop a calendar of community outings and ideas for activities in the center. Individuals have the option to change groups, based on the outing or activity. DSP's encourage and support the choices of individuals, and allow them to make changes to activities and outings. Staff reported that the nonverbal individuals communicate their choices with visual images. The documentation reviewed (Quarterly and Monthly Schedule) supports the choices provided to the individuals.

*Evidence included: Interviews with staff and individuals, HCBS Policy, daily progress notes, quarterly person centered reviews.*



(Summer camp cabins)

## Section Four

### Evidence of Choice and Freedom from Coercion and Restraint

The Virginia Informed Choice Form is completed at least annually with each individual by their assigned support coordinator/case manager. This form is kept on file stating the individual's choice to receive home and community based services and their choice of provider. Should an individual wish to change their services, the support coordinator/case manager would support the individual by looking at multiple other service choices and again completing the choice form (should another service or service provider be selected).

In addition to choice of services and providers, Civitan provides choice in: types of food and drinks that are available to all individuals, clothing options, choice in activities, choice of places to go in the community, ability to choose to decline any offered activities or services, and choice in directing one's own life.

*Evidence Included: Virginia Informed Choice Form, Person-Centered Plans, Provider's Home and Community Based Services Policy, Interviews with staff and individuals, Person-Centered Plans*

The provider utilizes a de-escalation training for all employees upon hire and annually thereafter. The program utilized is CHOY. All staff reported that any kind of restraint is a violation of agency policy. When asked about the agency policy on coercion, staff were unable to provide any insight on how they avoid coercion or how to recognize signs that someone is being coerced. A re-training for all staff members will be required for this setting regarding coercion.

*Evidence included: Orientation checklist for staff, Provider's Home and Community Based Services Policy, interviews with staff.*

## Section Five

### Evidence of an Accessible Environment

This setting is fully accessible to all individuals who attend the program. However, if an individual required support in the bathroom they do have to inform a staff member and leave the building (covered walkway) to access the bathroom.

*Evidence included: pictures  
and in-person tour  
completed on 9/29/2021*

## **Section Six**

### Evidence of Participation in the Person-Centered Planning Process.

Individuals reported participating in their person-centered planning meeting. This included deciding where to hold the meeting, who should attend the meeting, picking their outcomes and voicing any needs for changes. In the event that an individual does not use words to communicate, the staff reported that the Home Manager will ask for input from staff who know them well prior to the meeting and ask for feedback from the staff once the plan is drafted. Direct Support Staff did not report attending the meeting.

*Evidence included: a review of the person-centered plan, interviews with staff and individuals, review of the provider's Home and Community Based Services Policy- Expectations for Person Centered Planning.*

**Section Seven (As applicable)**

**Evidence of Provider-Owned Residential Protections** including: a lease agreement, access to food at any time, ability to have visitors at any time, a key to the dwelling, and the ability for the individual to decorate their bedroom.

Not applicable as this setting is a group day support setting.

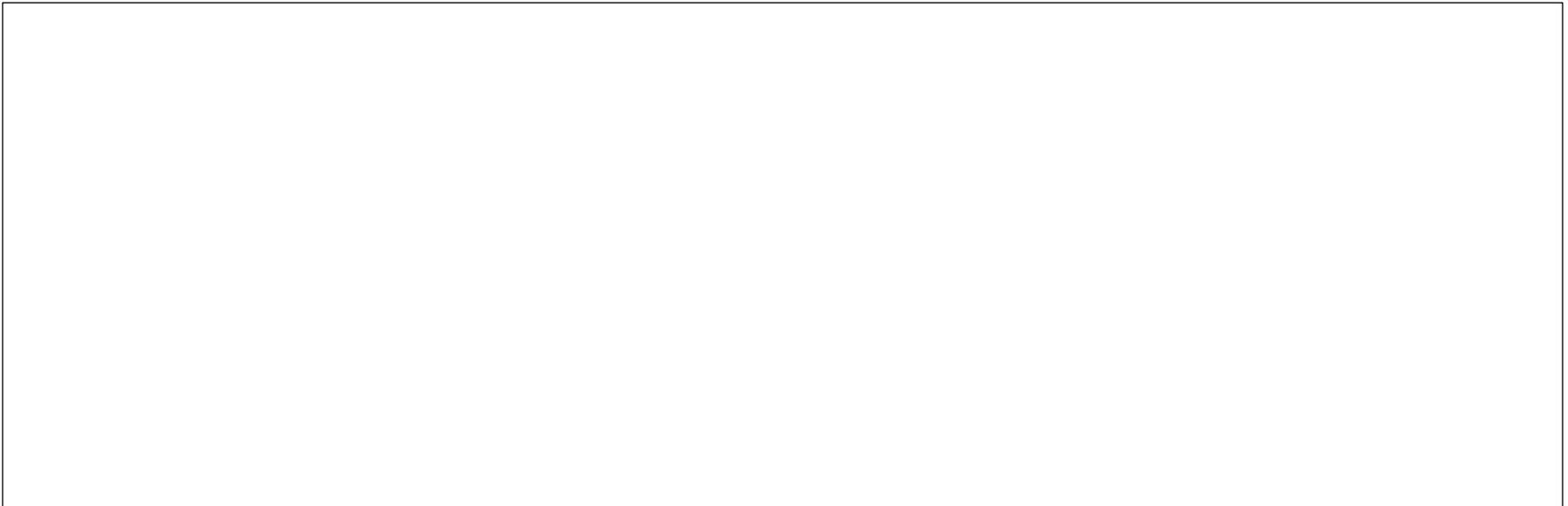
**Public Comment Review Period:**

Public Comments Summary

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**Section Nine**

Summary of State Response to Public Comments

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## Attachment List:

Attachment A- Commonwealth of Virginia: Modernizing Culture, Practices and Competencies in Home and Community-Based Services

HCBS Review Team, Provider On-Site Settings Review Protocol, July 2020

Attachment B- Full Evidence List

Attachment C- Summary of Audit Findings

Attachment D- Provider Remediation Plan

Attachment E- Final Assessment of Compliance Capability

Attachment A:

## Summary of Review Protocol Utilized by Virginia

### Protocol Overview

The purpose of this protocol is to describe the processes, tools and timelines for the Commonwealth of Virginia Home and Community-Based Services (HCBS) Review Team to conduct a review of a statistically significant sample of the following home and community-based settings: Group Day Services, Supported Living, Sponsored Residential, Group Home and Group Supported Employment Services. The purpose of these reviews is to ensure the rights, dignity and autonomy of individuals enrolled in these programs are honored according to the HCBS Final Rule published in the Federal Register on January 16, 2014; effective March 17, 2014. The HCBS Final Rule establishes requirements for residential and nonresidential service settings in Medicaid waiver programs to ensure individuals receiving services through HCBS waiver programs have access to the benefits of community living and are able to receive services in the most integrated settings. This process is referred to as the provider on-site<sup>1</sup> settings review (OSR).

A HCBS Review Team is established from the Department of Medical Assistance Services (DMAS) and the Department of Behavioral Health and Developmental Services (DBHDS). Each review team consists of 2-4 state staff and may include a combination of representatives from DMAS and DBHDS. In preparation for each OSR, the HCBS Review Team assimilates findings from all provider self-assessment information entered into Research Electronic Data Capture (REDCap). The interview questions, documentation review and visual observations are based on the evaluation of compliance in the following six categories:

- *Community integration and engagement*
- *Autonomy, choice and control*
- *Friends and visitors*
- *Physical environment (Location, signage, accessibility)*
- *Privacy and respect*
- *Policies, procedures and practices (promotion of rights and integration)*

### Settings Tours and Observations

#### Settings Tour

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<sup>1</sup> As of 6/1/2020, an alternative, hybrid approach was added to this protocol. All references to OSR mean any method of review, in-person or virtual.

The HCBS Review Team conducts a walking tour of the physical environment to observe indicators of compliance/non-compliance. This includes but is not limited to the location, decoration, accessibility, signage and privacy. The settings tour occurs using the Provider Settings Review Tool which includes questions for determining if the setting is fully integrated into the community; is accessible, which includes no obstructions or blocked doorways; is decorated according to individual preferences; has locks on the inside of bathroom and bedroom doors to allow privacy; and has signage without terms stating that people with disabilities receive services there.

Additionally, the HCBS Review Team determines whether:

- The home is on or adjacent to an institutional setting (heightened scrutiny)
- The home is isolated from the community and does not have the effect of isolating people from the community
- The home is integrated in and supports access to the greater community
- The environment is physically accessible

The HCBS Review Team also may take indoor and outdoor photographs of the building, signage, access doors, etc., as evidence in the setting's OSR file and to submit to CMS for heightened scrutiny review. For confidentiality purposes, no photos are taken of people.

For OSRs with virtual elements, the HCBS Review Team tours the setting through virtual means with the provider using a tablet or cell phone to offer a live, visual (FaceTime or other visual application) opportunity to observe the setting. The HCBS Review Team may request the provider submit photos taken (both indoors and outdoors) during the virtual tour. The Commonwealth may submit these photos to CMS as evidence for settings subject to a heightened scrutiny review. Photos do not include images of people.

The state may decide to follow-up with an in-person visit if only one state reviewer can participate in the virtual tour or if deemed necessary as determined by what is observed.

### **Settings Observations**

The HCBS Review Team seeks to learn about the implementation of provider processes to assure community integration and engagement. The OSR involves discussion with staff, supervisors and leadership, and review of service documentation. Dependent upon the type of setting, the review may involve observation of active service delivery, such as day programs, residential supports or group supported employment. Where possible, the HCBS Review Team focuses discussions with those involved in the frontline application of the provider's service delivery processes. Observations and discussions with provider leadership, supervisors and managers occur in addition to rather than instead of discussions with direct line staff.

The HCBS Review Team makes observations and ask questions to determine:

- Individuals are provided choice, autonomy, and community engagement
- Individuals are provided choice regarding services and who provides them

- The individual has a lease or other legally enforceable agreement providing protections from eviction that tenants have under the landlord/tenant law of the state, county, city or other entity (for settings where landlord tenant laws do not apply, the state must ensure that a lease, residency or other agreement provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law). The agreement must include at a minimum the agreement length, payment information, use and return of security deposits, maintenance expectations, notice before entry into a unit, and conditions that could initiate an eviction and the process to terminate an agreement, evict a tenant/resident and the process to appeal an eviction. Additional information regarding the Virginia Resident Landlord and Tenant Law Act can be found [here](#).
- The individual has privacy in his or her unit, including lockable doors, choice of roommates and freedom to furnish or decorate the unit
- The individual controls his or her own schedule, including access to food at any time
- The individual can have visitors at any time
- The home is selected by the individual from among setting options
- Policies, procedures and practices promote HCBS rights and integration
- Staff competencies, training, and interactions promote rights of privacy, and respect, as well as freedom from coercion and restraint

### **Interview with Direct Service Providers, Volunteer and Supervisor**

Interviews with staff and volunteers in the setting, including direct service providers and supervisors, are for the HCBS Review Team to learn about implemented practice and processes for assuring individual's experience with community integration, engagement, and autonomy. Additionally, the team asks questions relating to the physical aspects of the setting to determine how they assure the individual's understanding of their options to participate in general community activities with supports/services, including options for employment and where they live. Questions are to determine if individuals have privacy, understand their choice in roommates, and have the liberty to furnish and decorate the room/home in which they reside.

The HCBS Review Team focuses the interviews with staff who are directly involved in the frontline application of the provider's direct service delivery processes, including group home managers, DSPs, sponsored residential providers, day program managers and employment site managers and/or job coaches. Interviews with provider executive leadership and administrative staff occur separately, in addition to rather than instead of conversations with direct line staff. Interviews occur with individual staff and/or in groups to glean as much information from as many people as possible during the OSR. For settings with five or fewer staff, the HCBS Review Team asks all staff to participate in interviews. The HCBS Review Team interviews a 10% sample when the setting has six or more staff.

All staff interviews, regardless of role within the setting, include the following common elements to initiate the discussion:

- Introductions of the HCBS Review Team
- Introductions by the staff, including a short overview of their role with the setting
- An overview of the project and the purpose of the OSRs and the importance of the staff person's participation in the interview

- An overview of the interview process to include:
  - An explanation that the interview is intended to be a fact gathering exercise and that notes are taken to inform the OSR to support the provider's goal of organizational compliance with the HCBS Final Rule
  - A note that any references to HCBS individuals include the Authorized Representative/Guardian, as appropriate
  - A request that the staff person provide candid responses to the questions to seek improvement with the provider's goal for organizational compliance with the HCBS Final Rule
- An opportunity for the provider or staff to ask questions about the process

The HCBS Review Team then uses the state-developed interview questions to facilitate the conversation and record responses. At the conclusion of the interview, the HCBS Review Team provides contact information for the Regional DMAS staff if the person wants to share additional information after the OSR. The HCBS Review Team concludes with an expression of thanks to the person for sharing valuable information and insights.

When conducting a 100% In-Person OSR, the HCBS Review Team selects staff who are present during the OSR for interviews. Otherwise, a selection of staff that regularly work in the setting receive a remote interview session. Virtual interviews occur by telephone, or teleconference, preferably using a webcam for visual participation (with applications such as FaceTime or Zoom Meetings). It is important to convey to the provider these interviews are private so that no other staff or supervisors are present in the room during the interview.

### **Interviews with Individuals Who Receive HCBS**

The HCBS Review Team interviews individuals during the OSR to learn about their experience in the setting and what they understand about their options for services and supports outside the setting. A minimum of 25% of individuals receiving services in a setting are interviewed and no less than 2 individuals for smaller settings of 2-10 persons receiving services. The HCBS Review Team randomly selects individuals for interviews and provides a list of those individuals in the Provider Packet. Individuals receive information about the visit prior to the OSR via the Individual and Family Letter and Individual Interview Fact Sheet. Individual interviews occur outside of the presence of staff. The HCBS Review Team assures individuals that their responses are not shared with staff. Individual participation in an interview is optional. If an individual does not want to participate, the HCBS Review Team works with the provider to identify a replacement, if possible. The HCBS Review Team documents the number of individuals in each setting that refuses an interview.

The HCBS Review Team then uses the interview questions to facilitate the conversation and record responses. At the conclusion of an in-person interview, the HCBS Review Team provides contact information of Regional DMAS staff if the individual wants to share additional information after the OSR.

At the conclusion of a virtual interview, the interviewer verbally or visually (using a paper sign) provides contact information of Regional DMAS staff if the individual wants to share additional information after the interview. If able, the individual can write down the contact information.

Other options for sharing this contact information include:

- Inviting the support person back into the room to assist
- Sending the contact information via email
- Sending the contact information via text message
- Mailing a postcard to the individual
- Adding the contact information to the Individual/Family letter prior to sending the provider packet

Regardless of OSR approach, individuals, or family/guardian, may choose to participate in the interview remotely. The HCBS Review Team collaborates with the provider to determine if individuals in the sample have the ability to consent to participation in a private, remote interview. The expectation is the individual can participate independently without assistance from staff other than to set up and start the phone/video call. At the start of a remote video interview, the interviewer will ask the individual if anyone has joined them in the room. If the response is affirmative, the interviewer will ask the individual to introduce their guest. At this time, the interviewer will determine if the guest will be participating in the interview; if yes, they will be asked to move into the video frame and in view.

Attachment B:

## Full Evidence List

- REDCap Provider Self-Assessment
- Mission Statement
- HCBS Policy, Community Participation Policy, Provider policies in REDCap
- Code of Conduct
- DSP Job Description
- Video Monitoring Policy and proof of approval
- Consent forms signed by individuals and/or guardians
- Employee Training Checklist
- Staff Orientation Form
- HCBS training materials
- HCBS staff training records
- Lease agreements signed by individuals
- HCBS rights disclosure form signed by individuals

Person Centered Individual Support Plans  
ISP part V for all individuals reviewed  
Person Centered Quarterly Reviews for all individuals reviewed  
On Site Visit Tool  
House Activity Calendar  
Individual Schedules  
Pictures of location  
Google Maps  
Supplemental Risk Assessments  
Daily and Monthly Notes for the period of 1/1/2020-1/31/2020  
Logs/Data sheets for 1/1/2020-1/31/2020  
Interviews with individuals and staff completed on 9/29/2021.

Attachment C:

## Summary of Audit Findings

<b>HCBS Standard</b>	<b>Rating</b>
1. Integrated Setting Supports Access to the Community.	Partially Compliant
2. Individual Choice of Setting.	Partially Compliant
3. Individual Rights	Compliant
4. Autonomy and Independence	Partially Compliant
5. Choice	Partially Compliant

Attachment D:

Provider Remediation Plan

Remediation Item	Completion Time Frame	Strategies to Address Remediation Item	Resources Needed to Complete	Notes
<p>Civitan sites- they are located on 14 acres enclosed by a fence, with the day support, group home, 5 cabins for summer camp, playground, kickball field, and pool co-located. Location does resemble a campus. One option for remediation is to relocate the group home and/or day support off the campus, and use the site for respite, summer camp, and community engagement only. Another option would be to remove the fence around the property and increase community participation on the site. An example is to have an integrated summer camp so the campers are not only individuals with disabilities, possibly open use of the playground and pool to the public, host</p>	<p>August 2022</p>	<p>Eggleston Civitan Location is already open to the public; however, few know about the campus. Prior to covid, the pool was rented out for community use.</p> <p>Prior to covid there was routine use of the baseball field for the city’s challenger little league, boy scouts and girl scouts.</p> <p>Summer Camp is already integrated and advertised as such. It is a fee for service for all! Medicaid is not billed for any individual.</p>	<p>Unknown until final determination is discussed.</p>	<p><i>Will send this to Executive Management by 10/12/21 to begin discussions of plans.</i></p>

Remediation Item	Completion Time Frame	Strategies to Address Remediation Item	Resources Needed to Complete	Notes
public events such as a festival or farmers market, rent out the home next to the group home to a local family. Site does have a lot of potential for Community Integration.				
Human Rights postings need to be updated. Need to remove cell phone number.	10/ 11/2021	The Cell Phone number has been removed and updated.	None	Updated and Resolved
Confusion among staff between HR and HCBS rights. Finding for most providers-recommend retraining and reinforcing HCBS more often.	November 2021	Eggleston will add refresher HCBS Training with annual refresher trainings.	In Progress	Update 8/30/21: See Youtube Video
Health safety / Dignity issues-laying outside was glass door, woodpile, wash machine sitting outside. One door had piping hanging over door.	November 2021	The Maintenance Team will remove trash and take it to the local dumpster.	In progress	<i>See Maintenance Ticket from 10/11/2021.</i>
No opportunity for alone time-alone time means an individual sits apart or goes outside while remaining in site of staff. Day support located in one large room. Individuals are able to go to cabins/cottages but way to	November 2021	Civitan has a sensory room that currently has beds stored in it. The Director of Day Services will reassess our storage constraints to provide spaces for the individuals to have alone time if they should choose.	In Progress	<i>See Email to the Director on 10/11/2021 for Updates of moving furniture and reorganizing.</i>

Remediation Item	Completion Time Frame	Strategies to Address Remediation Item	Resources Needed to Complete	Notes
be safely alone if needed is recommended.				
The day support site having a bathroom and a kitchen outside of the building. Bathroom has curtains. Most likely this not the best way to provide day support, however, there may not be a regulation that prohibits this.	August 2022	<ul style="list-style-type: none"> <li>The kitchen is located inside of the building. See attached pictures. There are two access points, one outside and one inside.</li> </ul> <p>The bathrooms are inside with heat and cooling; however, you have to go outside and back inside to access the spaces. The spaces are covered by an awning and there are no issues with excessive water or ice. We will put in a maintenance ticket to the rest room curtains and provide move of a private stall doors with locks. See Maintenance request.</p>	In Process/ Unknown	<i>See Maintenance Ticket from 10/11/2021.</i>
Daily notes and staff interviews for Civitan and Military Hwy have a big focus on safety and remaining in line of site at all times-alone time means sitting off to the side vs in a different room. Overall, appears risk adverse.	October 2021	Dignity of Risks will also be discussed at our next team meeting. Eggleston will continue to work on person centered language that focus on the needs of adults.	In Progress	<i>Next Team Meeting scheduled for 10/12/2021, will review dignity of risks.</i>

Remediation Item	Completion Time Frame	Strategies to Address Remediation Item	Resources Needed to Complete	Notes
Would recommend dignity of risk training.				

