

## 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 Group Home</b>
<b>Setting Address: 2218 Cedar Road, Chesapeake VA 23323</b>	<b>Type of Setting: Group Home Residential</b>
<b>Number of people served at the setting: 4</b>	<b>Number of individuals reviewed: 2</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 Day Support 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 ,and movie theater.

The campus style setting is fenced in and is located outside of other residential areas and business areas. The home is a ranch style home that has 4 bedrooms, living areas, multiple bathrooms, and kitchen and laundry room. The home is well-decorated and all individual's rooms are personalized. The home is not in a typical residential area although there is a neighborhood across the street. The home is fenced in with the rest of the summer cabins, counselors house and day support.



*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

Individuals do often go for walks in the neighborhood across the street for exercise and recreation. Any activity beyond going for the neighborhood walks would require driving based on the location of the setting. The provider does have vans that are available for all community based activities. Typical activities include going out to eat at the local restaurants, shopping at Dollar General, Dollar Tree and grocery stores. Individuals also enjoy going to local parks, bowling or going to movies.

Eggleston has several policy elements that promote community access including having community access listed in all staff position descriptions, a community participation policy, and individual's support plans containing specific outcomes related to community access. Individuals are asked for specific activities that they would like to participate in on an ongoing basis. There are no ride share options used or public transportation.

*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

Individuals in the home have private bedrooms with doors that lock. Each individual has a key to their bedrooms and the entrance door. Individuals can go into their bedrooms for privacy or step outside. Individuals also have privacy in the bathroom as the doors have locks and individuals report that staff always knock before entering.

*Evidence included: interviews with staff and individuals, daily progress notes, in-person tour completed 9/29/2021, Provider Home and Community Based Services Policy- Modification section.*

Per interviews, individuals provide input on outings and activities for the month at their group home monthly meeting. Individuals decide what to buy and use their debit cards to make purchases. They decide if they want to spend time in their bedroom, living, kitchen, or porch. Staff support each individual to do their favorite things as much as they like. One individual is an artist and is supported with creating art a few times a week. Individuals are able to engage in favorite activities and explore their interests. Individuals are able to decorate their rooms how they please.

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

## 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*

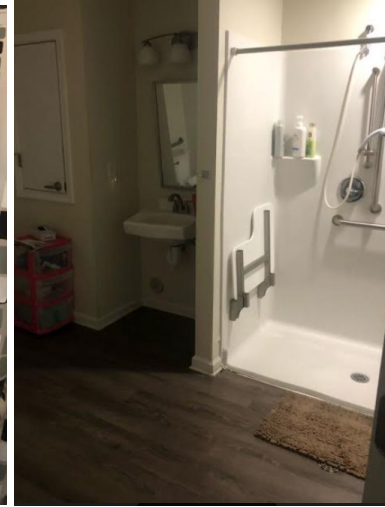
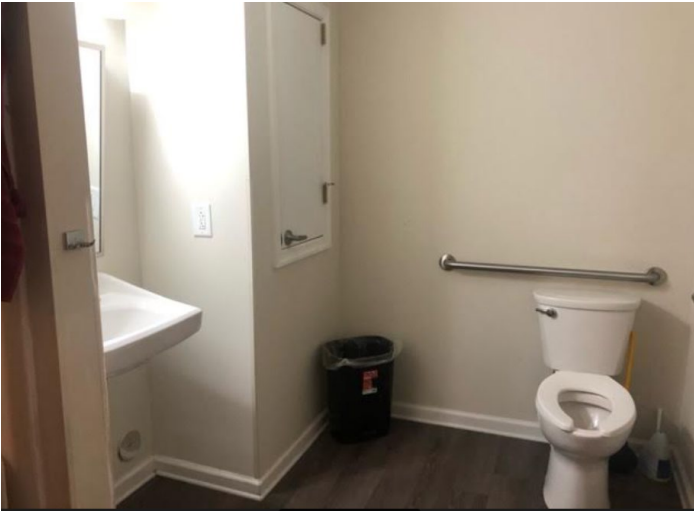
The provider utilizes a de-escalation training for all employees upon hire and annually thereafter. The program utilized is CHOY. All staff reported that any kind of restraint is a violation of agency policy. When asked about the agency policy on coercion, staff were unable to provide any insight on 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.



*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.

All individuals have lease agreements that contain protection from eviction. Individuals do have access to food at any time and there are no locks or barriers to food within the home. There is a menu of food that is scheduled daily; however, the individuals do report that they can pick other options and are not required to eat what is on the menu. All individuals do have keys to their bedrooms and the entrance door to the home. Individuals are able to decorate their rooms in the way that they choose and are able to make changes as they wish. There are no shared bedrooms within the home.

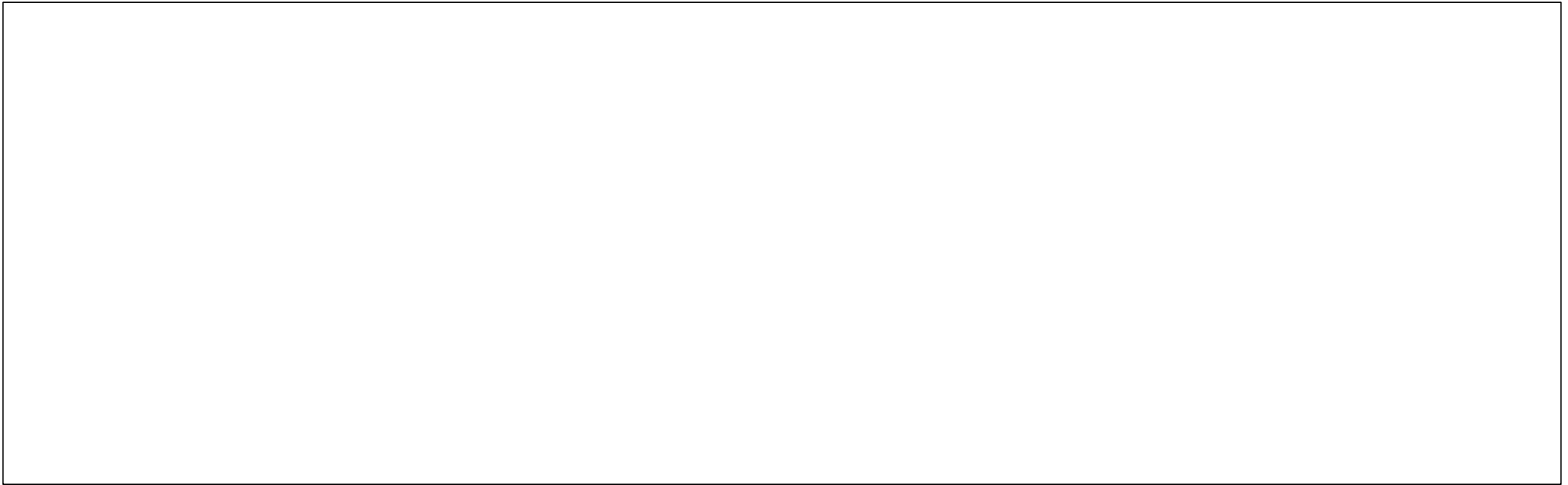
*Evidence included: interviews with staff and individuals, HCBS policy, daily progress notes, lease agreement and in-person tour on 9/29/2021.*





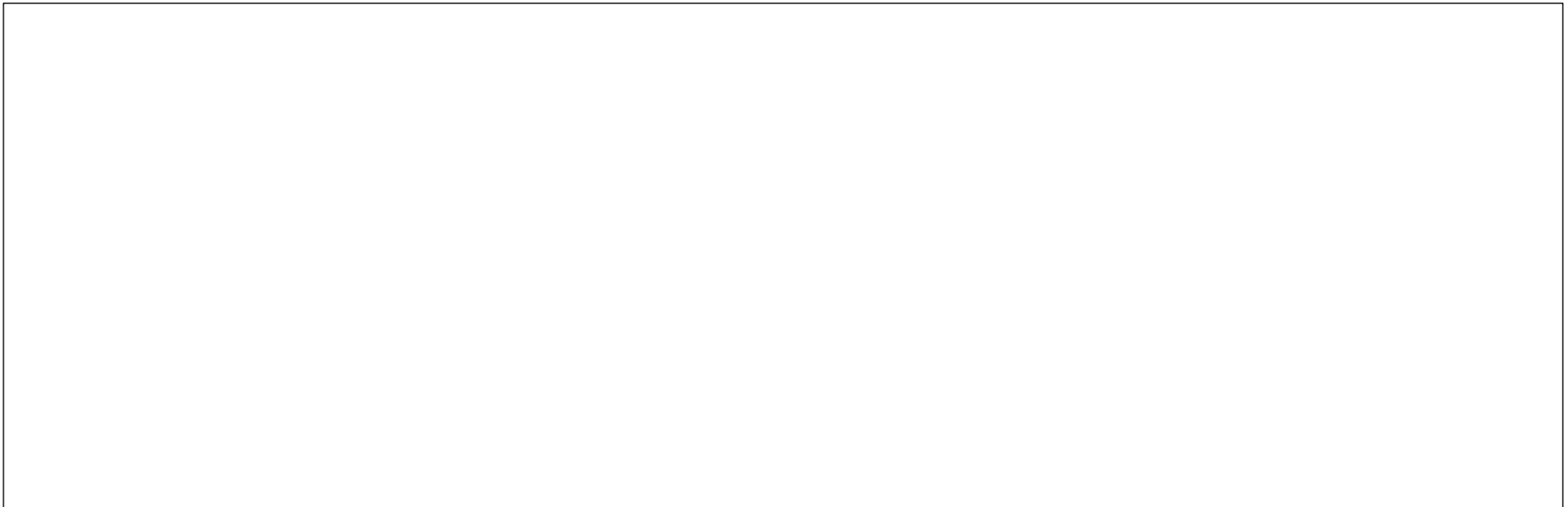
**Public Comment Review Period:**

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 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.	Compliant
3. Individual Rights	Partially Compliant
4. Autonomy and Independence	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 public events such as a festival or farmers market,</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
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	<i>Updated and Resolved</i>
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
Wall postings-ex. staff task lists, staff reminders, etc. recommend place in less conspicuous locations. Goal is for homes to look like a home you or I would live in as much as possible.	November 2021	Wall posters will be removed and placed inside of a binder entitled House Support guidance's	In Progress	<i>See Email from 10/11/2021</i>



