

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

Provider Name: Eggleston Services	Setting Name: Sarah Bonwell Hudgins Center
Setting Address: 51 Battle Road Hampton, VA 23666	Type of Setting: Group Day Services
Number of people served at the setting:	Number of individuals reviewed: 9

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: July 28, 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 representative from DMAS and 3 representatives from DBHDS

Description of Setting:

51 Battle Road Hampton VA 23666 is located in a populous and suburban area of Virginia. This setting is a group day service setting that is located on a campus housing four group homes that are also operated by Eggleston services. Many of the individuals living in the adjacent group homes do attend the day support and will walk to and from the day support with staff. In addition, there are individuals who attend the group day services from other community-based residential providers or individuals who live on their own or with natural supports. This setting has multiple different rooms that are used by the individuals receiving services for activities. A typical room will have one staff and up to seven individuals. The state team did note that not every room had seven individuals as the needs of the individuals dictate the level of staff support that is required. While onsite the state team observed the following activities happening within the rooms: individual-driven exercise routines, crafts, walking in an outdoor courtyard, listening to music, sensory activities, and individuals socializing with each other. Lastly, there were several groups of individuals preparing to go out for the day to get lunch at Wendy's and go to a local beach.

In the outside courtyard area, there is a walking path and garden that are available for use by any of the individuals as they desire.

This setting does have transportation available by way of the agency van (that does contain an Eggleston label). Individuals are able to request transportation at any time. No one reported the use of public transportation or any ride-sharing options.



Evidence included: interviews with staff and individuals, review of pictures, and an in-person tour completed on 7/28/2021.

Section Two

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

Each room of the group day setting does have an activity schedule. Individuals and staff reported that individuals often request to spend time in specific rooms based on the scheduled activity. Community based activities tend to be the most popular and individuals will often move from room to room to participate in the preferred activities.

The setting does have multiple vehicles that are available for community based activities. All vehicles do contain the logo of the agency.

The setting is located behind a day care center and a residential neighborhood. However, it is not noted or reported by staff that the individuals go for walks in the adjacent neighborhood. All walks would happen with in the campus or in the courtyard area of the group day center.

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, Activity schedules

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
			 2 Tic Tac Toe/Zumba/ Library	 3 Trivia day/eggnog and coffee social
 Mow/National Hat day/bingo	 7 Hangman/ cooking demo (covered cherries)	 8 Healthy and safety flashcards/ Uno	 9 Arts and crafts day/ Pet Zone/ Karaoke	 10 Vision board day/ Simon Say
 13 Mow/cleaning day/hangman	 14 Music class/Zumba	 15 National hat day/classroom bowling	 16 Church/ Pictionary	 17 Arts and crafts /Tic tac toe
 20 Mow/ Martin Luther King/Uno	 21 Cooking demo (granola bar)/ Board games	 22 Healthy and safe flashcards/ Simon says	 23 Library/ Journaling/ Karaoke	 24 Hangman/ Classroom bowling
 27 Mow/ tic tac toe/ bingo	 28 Uno/ Arts and crafts	 29 Karaoke/ Puzzle day	 30 Arts and crafts/Freeze tag/ Pet Zone	 31 Zumba/ Coffee social

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
		1 New Year/Closed	2 Bowling at Century Lanes Bowling Alley	3 Richard Simmons Old School Dance Exercise/Senior Trivia Game! New Year Color Sheet!
6 Coffee/Tea Time Senior Trivia and Bingo Game Discuss February Outings!	7 AMC MOVIE THEATRE/Board Games Chair Aerobics Exercise	8 Meals On Wheels/Chair Aerobics and Hang Man	9 West Hampton Church/Bingo Game and Safety Discussion	10 Hot Potato Game/Karaoke and Safety Discussion
13 Coffee/Tea Time safety Discussion and Board Games	14 Music Therapy/ Subway in Hampton to eat lunch. Talk about February Outing Schedule	15 Meals On Wheels/Can Toss Game	16 Immaculate Conception Baptist Church/Chair Aerobics and	17 Guess Who Game/Bowling Game Day Martin Luther King Coloring Sheets and Discussion!
20 Coffee/Tea Time, safety discussions/Chair Aerobics and Hot Potato Game.	21 Boo Williams Sportsplex/Chair Aerobics and Hot Potatoe Game	22 Meals On Wheels /Corn Hole and Bowling Game	23 Chair Aerobics West Hampton Church and Bingo Game!	24 Karaoke and Dance Party with Richard Simmons!
27 Coffee/Tea Time, safety discussions/Chair Aerobics /Uno game	28 Patrick Henry Mall Outing/Chair Aerobics and Senior Trivia	29 Meals On Wheels/Uno Game and Chair Aerobics	30 Hampton University Outing/Chair Aerobics and Bingo game	31 Bowling Game/Richard Simmons Dance Party Exercise.

Section Three

Evidence of Privacy, Autonomy and Independence

Individuals and staff reported that all individuals are able to have time to themselves as needed. Individuals may go outside or sit in a shared-office space in the building. Several individuals utilize the shared space for alone time to use their tablets, iPads, etc. after returning back to the building from community-based activities.

Evidence included: interviews with staff and individuals, daily progress notes, in-person tour completed 7/28/2021, Provider Home and Community Based Services Policy- Modification section.

Individuals do report being able to move between rooms while at the group day support. Individuals are also able to go outside in the courtyard area as they wish. However, it was not reported that an individual would leave the courtyard without staff support. Staff do report asking individuals to stay in a group while out in community places.

Evidence included: interviews with staff and individuals and 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, the group day service provides choice in: where individuals spend their days, with whom they spend their days, where they go in the community and activities within the center.

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 home does support individuals with a wide variety of support needs. The home does have an accessible entrance and exit, accessible bathrooms, doorways that accommodate medical equipment, and various seating options in the activity rooms.



Evidence included: pictures and in-person tour completed on 7/28/2021

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 the setting is a group day service.

Section Eight

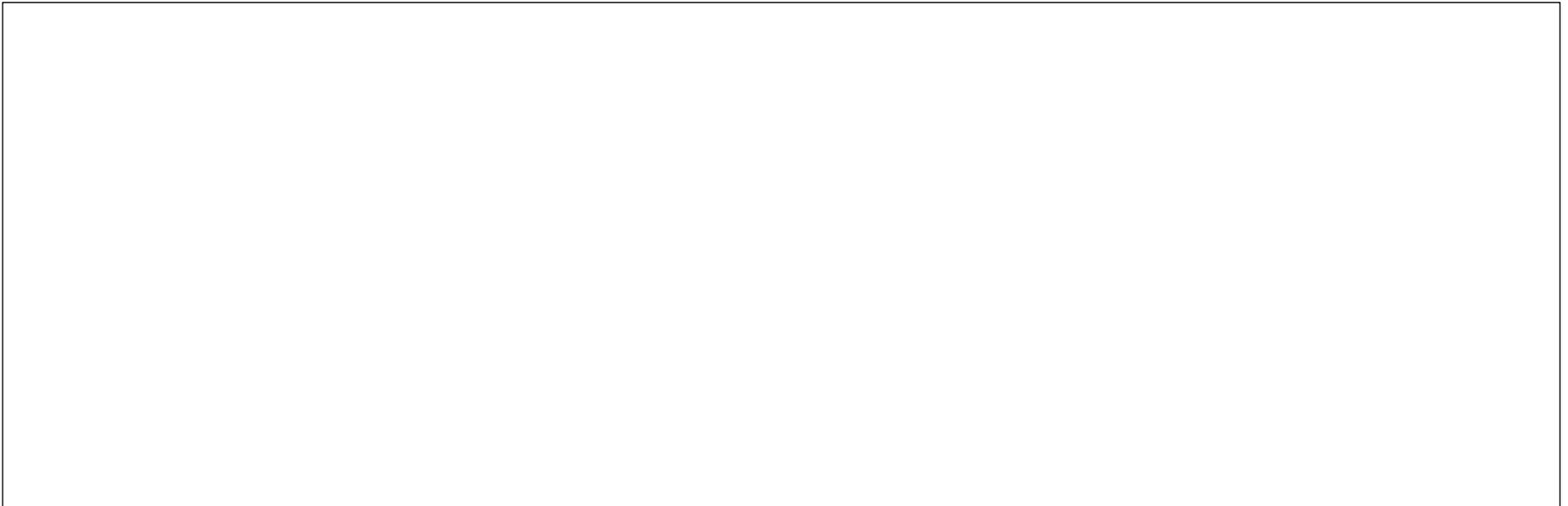
Public Comment Review Period:

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-site¹ 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

¹ 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 8/13/2021.

Attachment C:

Summary of Audit Findings

HCBS Standard	Rating
1. Integrated Setting supports access to the Community.	Partially Compliant
2. Individual Choice of Setting.	Compliant
3. Individual Rights	Partially Compliant
4. Autonomy	Compliant
5. Choice	Partially Compliant

Attachment D:

Provider Remediation Plan

Attachment E:

Final Assessment of Ability to Reach Full HCBS Compliance by March, 17 2023

