

Heightened Scrutiny Evidence Packet

Setting Information

Provider Name:

Hillside Children’s Center

Location of Setting: Rochester, NY 14620

Type of Setting: Individualized Residential Alternative (IRA)-Small (1-8 Beds)

Medicaid Home and Community-Based Services Being Provided at the Setting:
Residential Habilitation

Heightened Scrutiny Prong

- 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.

Qualification for Prong

Describe briefly below how the setting meets the prong indicated (what facility is it in or located on the grounds of, or adjacent to, etc.):

This residential site was determined to be a prong 3 site due to previous on-site evaluations of compliance with HCBS Settings requirements by OPWDD’s Division of Quality Improvement (DQI) survey staff who determined that the site was institutional in its appearance, and it operated in isolating ways. It was determined that the site needed improvement in person-centered practices and in making the site a more home-like environment.

Provider Compliance Summary

Requirements for All HCBS Settings

Compliant?	Federal Requirement	Summary
42 CFR 441.301(c)(4)(i) <input checked="" type="checkbox"/> Yes <input type="checkbox"/> Partial <input type="checkbox"/> No	Settings are integrated and support full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.	Review of community activity logs and interviews conducted by DQI provide evidence that individuals are participating in planned and unplanned community activities at the frequency they desire. This is also discussed at staff meetings as a standing agenda item. Individuals have weekly house meetings where they discuss their interests with staff.
42 CFR 441.301(c)(4)(ii) <input checked="" type="checkbox"/> Yes <input type="checkbox"/> Partial	Settings are selected by the individual from among setting options including non-disability	All individuals at the residence have their own private bedrooms. Interviews with individuals indicate that they are

<input type="checkbox"/> No	<p>specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and for residential settings, resources available for room and board.</p>	<p>currently satisfied with their living arrangements. This is also reviewed by managers on a monthly basis in the HCBS checklist that they complete. It is also discussed at management and staff meetings. Review of agency policies and documents pertaining to rights reflect HCBS settings requirements including being informed of an option for a non- disability specific setting. The template that the site uses, or person-centered planning includes the topic of choosing a non-disability specific setting. Additionally, staff and management for the residence have received retraining on person-centered planning (PCP), HCBS rights, various aspects of the HCBS Settings requirements, individual's access to food at any time and how staff can support meaningful community inclusion. The site has also implemented a PCP tool that is used with individuals in every review. Individuals have been given Rights "Palm" Cards developed by OPWDD and the Commission on Quality and Leadership (CQL) which comprehensively cover individuals' rights under HCBS Settings in plain language. Additionally, OPWDD requires Care Managers to discuss alternative non-disability specific settings with individuals as part of the Life Plan review process. Care Coordination Organizations (CCOs) are reviewed for this requirement annually as part of DQI's quality review survey of Care Management.</p>
<p>42 CFR 441.301(c)(4)(iii)</p> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> Partial <input type="checkbox"/> No	<p>Settings ensure an individual's rights of privacy, dignity, respect, and freedom from coercion and restraint.</p>	<p>Each individual has their own private bedroom. Individuals that were interviewed do not report being subject to coercion. Individuals have been given Rights "Palm" Cards. Interviews with individuals support individuals feeling like they have privacy, dignity, and their rights are respected. Additionally, staff have received retraining on PCP and HCBS Settings rights and the agency's employee handbook has been updated with HCBS and PCP related policies.</p>

<p>42 CFR 441.301(c)(4)(iv)</p> <p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> Partial <input type="checkbox"/> No</p>	<p>Settings optimize, but do not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.</p>	<p>Staff have received retraining on PCP and HCBS Settings requirements and the site is in the process of implementing the following policy and process changes: The employee handbook has been updated to include HCBS Settings related requirements. The agency has developed HCBS related policies, including access to food, access and having a lease agreement. Rights restrictions imposed have been reviewed and those not clinically justified have been removed. Individuals have also been given OPWDD's Rights Palm Cards. Individual experience interviews are now being conducted on a quarterly basis which includes verification that individuals are satisfied with their daily activities, their residence, and other services. HCBS Settings requirements, including satisfaction of individuals is reviewed by managers via their HCBS Settings checklist on a monthly basis as well. Review of community activity logs reflect community activities that are individualized and both planned and unplanned.</p>
<p>42 CFR 441.301(c)(4)(v)</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> Partial <input type="checkbox"/> No</p>	<p>Settings facilitate individual choice regarding services and supports, and who provides them.</p>	<p>The site has taken additional actions to more frequently assess individual choices and ensure that the site is delivering services and supports based on the needs, interests, and preferences of the individuals. Community activity logs are being kept for each individual at the residence and are reviewed by the residence's management to verify that the program is supporting the choices of individuals. The site is also conducting Individual Experience Surveys quarterly to verify the interests, needs, and preferences of individuals at the site. Managers follow up on any specific requests or choices that individuals convey to them. Identifying and facilitating the choices of individuals with services and supports has now been operationalized as a topic of discussion at staff and management meetings. Managers address with staff via staff meetings any specific requests and choices that individuals</p>

		wish to make. This is also reviewed by managers monthly via their HCBS Settings checklist. There are weekly house meetings with individuals and staff where choices are discussed.
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Additional Requirements for Provider-Owned or Controlled Settings

Standards for Provider-Owned or Controlled Residential and Non-Residential Settings

Compliant?	Federal Requirement	Summary
<p>42 CFR 441.301(c)(4)(vi)(C)</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> Partial <input type="checkbox"/> No</p>	<p>Individuals have the freedom and support to control their schedules and activities; and have access to food any time.</p>	<p>Individuals are supported in menu planning, buying their own food and preferred snacks, and eating when they want to. Staff have been retrained on how to balance an individual's independent access to food while still supporting individuals to maintain a healthy lifestyle. Interviews with individuals provide evidence that independence, freedom, and control of their schedules is respected and supported. Individuals report that they each have their own area of the kitchen pantry where they have their own preferred food. Staff take them individually to the grocery store where individuals purchase their own preferred food themselves. Review of community activity logs reflect varied, individualized, and meaningful community activities that occur at the frequency desired by the individual. The agency has implemented a written policy on ensuring access to food at any time and the employee handbook has been updated with these HCBS settings related rights. Individuals have also been given OPWDD's Rights Palm Cards.</p>
<p>42 CFR 441.301(c)(4)(vi)(D)</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> Partial <input type="checkbox"/> No</p>	<p>Individuals are able to have visitors of their choosing at any time.</p>	<p>Individuals are supported at the residence to have visitors at anytime and the agency's policies and procedures reflect this HCBS right. The agency has implemented additional policies pertaining to HCBS settings related rights and the requirement of having visitors at any time is reviewed by managers on a monthly basis via their HCBS settings checklist. This is also discussed with individuals in individual experience interviews conducted quarterly and in person-centered planning meetings with individuals. Individuals reported being</p>

		supported to have visitors at any time in interviews with DQI staff.
<p>42 CFR 441.301(c)(4)(vi)(E)</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> Partial <input type="checkbox"/> No</p>	<p>The setting is physically accessible to the individual. (Not modifiable)</p>	<p>All areas of the residence are accessible to individuals. Additionally, the basement door has been re-keyed so that individuals can access it safely and individuals have been offered keys to the basement, bedroom, and egress doors. Reviewing for continued compliance with this HCBS requirement has been added to the HCBS checklist being used by the Unit Manager monthly to monitor conditions at the residence. Timely action will occur to address anything on the HCBS checklist noted as unmet.</p>
<p>42 CFR 441.301(c)(4)(vi)(F)</p> <p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> Partial <input type="checkbox"/> No</p>	<p>Any modifications of the additional conditions under 441.301(c)(4)(vi)(A) through (D) for provider-owned and controlled settings must be supported by a specific assessed need and justified in the person-centered service plan.</p>	<p>The site has implemented a remediation plan to ensure that an individual's rights are only modified with sufficient data collection to assess/reassess the need and effectiveness of the limitation, and if justification remains, informed consent is obtained/updated to remain current. Behavior Analysts for the residence are assigned to conduct weekly reviews of the residence and review data collection documents during those inspections. Staff are also being retrained on the importance of collecting data and data collection requirements. Staff meeting minutes provides evidence of this retraining. The Behavior Analysts and members for the Human Rights Committee are being retrained on this HCBS right. Procedures have been put in place to review individual plans and the continued need for any included restrictions or modifications. This has resulted in reducing the restrictions in place. Routine reviews for this issue will continue.</p>

Standards for Provider-Owned or Controlled Residential Settings Only

Compliant?	Federal Requirement	Summary
<p>42 CFR 441.301(c)(4)(vi)(A)</p> <p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> Partial <input type="checkbox"/> No <input type="checkbox"/> Not Applicable</p>	<p>The unit or dwelling is a specific physical place that is owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has the same responsibilities and protections from eviction as all tenants under</p>	<p>The agency has instituted a lease agreement policy that they have developed. The agency is in the process of implementing lease agreements in the immediate future throughout their residential sites following the review of the lease agreement by their counsel.</p>

	landlord/tenant law of the State, county, city, or other designated entity. In settings where tenant laws do not apply, a lease, residency agreement or other written agreement is in place providing protections to address eviction processes and appeals comparable to those provided under the jurisdiction's landlord/tenant law.	
<p>42 CFR 441.301(c)(4)(vi)(B)</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> Partial <input type="checkbox"/> No <input type="checkbox"/> Not Applicable</p>	Each individual has privacy in their sleeping or living unit: (1) Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors. (2) Individuals sharing units have a choice of roommates in that setting. (3) Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.	All individuals have keys to their own private bedrooms to ensure independent access and privacy. In addition, individuals are offered keys to the residence's entrance/egress doors. The site has recently supported individuals to choose and purchase their own bedroom furniture, decorations, and curtains in community stores. Individuals reported in interviews that they made their own choices for preferred decorations in stores in the community. Individuals also reported selecting the artwork and decorations in common areas of the residence as well.

Recommendation

As required by 42 CFR 441.301(c)(5), the State of New York submits this request for heightened scrutiny review for the setting identified above. The State has compiled evidence that the setting is integrated in and supports full access of individuals to the greater community, is selected by the individual from among disability and non-disability specific settings, ensures individual rights, and promotes individual initiative, autonomy, choice, and independence.

Instructions for Completing Sections One through Four

The following four (4) sections may be expanded in length to capture evidence of HCBS Final Rule compliance. However, a complete heightened scrutiny packet may be no longer than ten (10) pages in length. The ten (10) pages should include documentation that demonstrates support of the statements made here. Any additional supporting documentation should be kept by agencies/offices/units for the recommended amount of time.

Section One

On-Site Visit Observation

Date Conducted: 2/22/2022

4/27-4/28/2021 with DQI follow-up on 2/22/2022

State Agency/Entity that Conducted the On-Site Visit: NYS Office for People With Developmental Disabilities (OPWDD) – Division of Quality Improvement (DQI)

Description of the Setting:

Hillside Children’s Center (HCC) is a provider of care for youth and families with a wide range of emotional and behavioral challenges. HCC offers mental health, child welfare, juvenile justice, special education, crisis support, and developmental disabilities services to children and families throughout Central and Western New York. They also work closely with families, community partners and school districts to provide individualized educational services that address broad challenges affecting learning, academic success, and graduation. Comprehensive pediatric, psychiatric, and medical consultation and coordination services complete the continuum of care. The residential site discussed in this summary serves youth up to the age of 22. This site is located on the outer perimeter of Hillside’s Children’s Center residential campus.

The campus is located within a residential/commercial neighborhood in the city of Rochester, NY. The site is within walking distance to stores, restaurants, public parks, and residential neighborhoods. It is located in a large, brick- exterior stand-alone building with front, side, and basement entrances. The front sidewalk area outside the entrance is landscaped with hedges and ornamental grasses. There is a rear fenced-in patio area with a grill, outdoor recreation equipment, and bicycle rack. The main level of the interior includes 8 individual bedrooms, several large common spaces/living rooms, a full kitchen, 2 full bathrooms and 2 half bathrooms. Pictures of the individuals participating in activities are hung on the hallway walls. Each individual is encouraged to decorate and organize their bedroom however they prefer. The basement level of the residence includes a large meeting space for life plan meetings as well as team meetings.

The residential team has been working with individuals and has made significant improvements to the site’s physical appearance more homelike. The kitchen floor and wall paneling has been replaced with warmer, homelike flooring and wall molding. The kitchen tables and benches have been removed and replaced with more comfortable dining furniture. A new couch and love seat was ordered and delivered for the living rooms and the game tables and benches in the living room will be replaced when the newly ordered furniture arrives to the site. Some of the wooden crate furniture was removed from the residence. The agency’s facilities team is working to provide framed artwork and posters for the hallway walls as opposed to the previously unframed posters. Individual’s report selecting those common area decorations with staff. Several of the individuals have recently selected and purchased new bedroom furniture such as dressers and nightstands from community furniture stores and have personalized their bedrooms with added décor such as posters, new curtains, area rugs, gaming chairs, etc. All individuals have keys to their bedrooms, and they also have keys to entrance/egress doors if they so choose, as well as the basement door which has been rekeyed in order to allow individuals independent access to that area.

The individuals at this residence enjoy going into the community regularly for a variety of activities. Staff help facilitate individual engagement in preferred community activities such as shopping at stores, dining at restaurants, enjoying local parks, participating in festivals, and doing their own weekly grocery shopping for their preferred foods. Many of the individuals enjoy going to Walmart, GameStop, Dave and Busters, Movies 10, or Tinseltown Movie Theaters. Individuals also have the choice to go swimming in the community at the aquatic center on a weekly basis where they have the opportunity to meet others in their local community. Other fun community activities that residents enjoy that staff help facilitate include visiting the Rochester Science Museum, Strong Museum of Play, the local library, and Altitude trampoline park. In the Spring and Summer, the individuals at this site are supported to enjoy Darien Lake theme park, SeaBreeze, Erie Canal Days, the Lilac Festival, and local music festivals in

the Rochester area. Several individuals enjoy getting haircuts at local barber shops and participating in activities at the local YMCA. They enjoy riding bikes in the community when the weather is nice.

Section Two

Community Integration Observations and Input from Individuals Served (without observation by staff), Family Members/Guardians, and Staff

Individual Interviews:

Individual C was interviewed independently by OPWDD's DQI survey staff without residential staff present. Individual C reported to DQI survey staff that they like to go to the library, take out books, and want to spend more time there. Individual C's guardian confirmed that they like to spend a lot of time at the library on a regular basis. Based on interview with staff it was determined that individual C requires more consistent staff support to visit the library more frequently so that he is able to return library books on time. Residential management are also now scheduling more frequent and regular library trips for individual C and are training all site staff on facilitation of this preferred activity. Individual C reported in a follow up interview with DQI that he has recently attended the library and now goes on a regular basis. During an interview between DQI survey staff and Individual C's mother on 4/28/21, she reported that staff go shopping for them because staff fear that they will elope. The on-site DQI survey found that rights restrictions requirements regarding data collection, obtaining informed consent, and review for effectiveness were not met for individual C, and contributed to that restriction. As part of the site's Remediation Plan, specific rights limitations in place for individual C have been reviewed and it was determined that certain restrictions are no longer required. For example, individual C will no longer be prevented from leaving the site during challenging behaviors and will receive necessary support to ensure his satisfaction and safety.

A follow-up visit by DQI to the residence was conducted on 2/22/2022 to verify implementation of the remediation plan. It was verified that rights restrictions for this individual have been reviewed and revised. This site recently collaborated with another residence to help support Individual C with staffing on a trip to see a Rochester Red Wings baseball game. Individual C has also recently been to the Buffalo Zoo. Individual activity logs are now being completed for all individuals on a daily basis to ensure that individuals are accessing the community according to their interests, needs, and preferences as often as they want. The Program Manager now reviews all Individuals' activity trackers to ensure individuals are being offered frequent opportunities to participate in purposeful, fun community activities of their choice. The Program Manager now reviews activity logs monthly to ensure individuals' activities are congruent with their communicated interests/preferences and ensures that this is documented in their quarterly individual experience interviews and will address all concerns with staff and document as applicable.

DQI recently conducted another interview with Individual C at a follow-up visit to the site. The individual reported they like the home they live in except that they would like to have Wii Fi instead of cable internet. There are internet game activities they would like to be able to access. This is being addressed by staff. They stated that they report any issues or concerns about housemates to staff and staff have assisted with any concerns. Individual C stated that they assist in grocery shopping and shares ideas for future menus during the weekly house meetings. They stated that they have a "snack bin" of their own in the pantry that they have purchased with their own money. "Everyone has one." Individual C reported that they get to participate in activities that they would like to and confirmed that they have gone to the Zoo and the Library recently. They have also recently enjoyed shopping for new furniture for their bedroom and buying games. Individual C was observed discussing going to Dave and Busters the day of the follow-up interview, which occurred as an unplanned activity.

Additional Individual Experience Interviews were also conducted with support from site staff. One individual at the residence reports satisfaction with the level of independence they have and is able to ride their bike into the community by themselves and can be alone in the community for up to two hours at a time. They reported that they like to play sports outside and ride their bike. They enjoy going to Walmart and going to the mall with staff support. They like to go out to eat at places such as Wendy's and McDonalds. They can ride their bike into the community by themselves and go to stores in the community of their choosing to spend their own money. They like to spend their money on eating out at restaurants, paying for their own cell phone and service plan, buying model cars for their hobby, buying video games, buying parts for their bike, and buying new clothes and new sneakers. They appreciate staff helping them to fix their bike and teaching them how to use different tools. The activities that this individual at the residence enjoys are community-based and facilitated by site staff at this residence.

Employee Interviews:

OPWDD's DQI survey staff conducted a follow-up visit to the site on 2/22/2022 and determined many of the corrective actions in the site's remediation plan have been addressed and/or implemented. The agency has implemented a person-centered planning tool that is used at all PCP meetings with individuals. Staff have also been retrained on concepts of person-centered planning and use of this tool. Individuals are empowered to facilitate their meetings at a time and place of their choosing. Personal goals and staff support that are needed to achieve those goals and foster independence are discussed. The individuals at the residence are given opportunities during weekly house meetings to plan activities and convey their community interests. They also provide input into menu planning and meals per their individual preferences. The site documents community activities that individuals have participated in through the use of a community activity log.

All programs at Hillside Children's Center conduct annual satisfaction surveys with the families and individuals that they serve. Annual goals are set for each program for overall family and youth satisfaction and these goals are communicated through Short-Term Plans. The results for family and youth satisfaction surveys are compiled annually, with reports provided to program leadership. In order to address a lack of formal and informal mechanisms to assess individual satisfaction with the service environment and facilitate the discussion of alternative living options for individuals, including those in non-disability specific settings, residential management has revised their weekly house meeting minutes template to include a specific section to discuss the topics and note any concerns regarding individuals' satisfaction with the service environment. Staff are being retrained to thoroughly document any satisfaction concerns. All individuals have been given OPWDD Rights Palm Cards that list their HCBS Rights. Satisfaction is also being added to the summaries for the person-centered planning meetings for individuals at the site to provide another forum for the discussion.

In order to ensure individuals' full access to the site, the residence has re-keyed the basement door and is ensuring that individuals understand that they have the right to have a key to the basement if they want one. Keys are available to any individual who wishes to have one and who does not have a current justified restriction. Walk-through observations are being conducted by management via use of an HCBS Settings checklist to ensure that HCBS standards are met, and individuals are not restricted from accessing typical areas within their own home. Any unmet areas or concerns are being documented on this checklist. All rights restrictions at the site are reviewed on a monthly basis in behavior team meetings and Human Rights Committee meetings to ensure restrictions are in compliance with OPWDD's 14 NYCRR 633.16 regulations regarding rights limitations or restrictions and which also align with HCBS protections for right modifications/restrictions.

5 staff at this site have attended a six-week HCBS and person-centered planning training from the NY Department of Health (DOH) learning Institute, including the Unit Manager, IRA Supervisor, Assistant Supervisor, and the site's two DSP3 staff. The DD Services Executive Director has also been attending virtual HCBS webinars. Other staff will be registered for future DOH-sponsored HCBS trainings as they become available. The Unit Manager, IRA Supervisor, and IRA Assistant Supervisor have provided continual HCBS and person-centered planning training to the rest of the Direct Support Professional (DSP) team during monthly team meetings. The Program Manager also trained nurses, behavior specialists, behavior analyst, and other site supervisors on HCBS standards during monthly department-wide leadership meeting on 9/16/21. HCBS and Person-Centered Planning is now a regular item that is discussed monthly at program department meetings which include staff and management from all sites at the agency.

Improvements to support individuals in making more individualized choices regarding the foods that they wish to eat have been implemented. Staff have been trained on OPWDD's Health & Safety Alert: Balancing the Right to "Access to Food" with Protections for Individuals in Home and Community Based Settings. Individuals participate in weekly grocery shopping, and they select and purchase their own preferred foods and snacks. This was verified in the individual activity logs and through interview with the individuals. The dietician provides suggested weekly menus, and they are discussed at weekly house meetings with the individuals. The feedback is given to the dietician for updates. The individuals are able to choose alternatives to the menu option as desired. This was verified during interviews with the supervisor, RN, and individuals.

Finally, monthly check-ins with management and individuals are now conducted at the site track and ongoing progress in fostering a comprehensive and inclusive person-centered approach at this residence is regularly evaluated. This includes completion of the HCBS checklist, which started on October 2021-present. Quarterly walkthroughs from agency staff and administrators not working at the site are now occurring to provide an objective view of any HCBS concerns within this residence. This will continue until the site achieves and maintains long-term compliance with all HCBS Settings requirements.

Section Three

Additional Evidence

The following evidence has been compiled that demonstrates the setting is integrated in, and supports full access of, individuals receiving HCBS into the greater community.

1. Approved Remediation Plan for Site-Individual C-and Individual H
2. HCBS Checklist Used by Hillside Management for inspections
3. Person-Centered planning and HCBS Settings retraining curriculum
4. Staff Meeting Minutes
5. Management meeting minutes
6. House meeting minutes
7. Community Activity Logs
8. Access to Food Policy and Procedure and Lease agreement template
9. Person-centered planning tool template
10. Photographs of interior of residence

Section Four

Public Comments Summary

Public Comment Period	
From: Click or tap to enter a date.	To: Click or tap to enter a date.

Summary of Public Comments Received for the Setting

Summary of the State's Response to the Public Comments Received

Click or tap here to enter text.