

Heightened Scrutiny Evidence Packet

Setting Information

Provider Name:

Oswego Industries, Site 1

Location of Setting: Fulton, NY 13069

Type of Setting: Day Habilitation

Medicaid Home and Community-Based Services Being Provided at the Setting: Day 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 site is subject to scrutiny due to the effect of isolating individuals from the broader community by only allowing group outings that restricted individual choice, restricted individualized schedules, and restricted access to the broader community.

Provider Compliance Summary

Requirements for All HCBS Settings

Compliant?	Federal Requirement	Summary
<p>42 CFR 441.301(c)(4)(i)</p> <p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> Partial <input type="checkbox"/> No</p>	<p>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.</p>	<p>The site is in the process of implementing a remediation plan that addresses access to the broader community. Site management are completing program observations, reviewing community activities, and holding bi-weekly meetings with staff on topics identified in their remediation plan. The site has also purchased additional vehicles for the site and have increased staff recruitment efforts to ensure adequate staffing to ensure compliance with HCBS Settings requirements.</p>
<p>42 CFR 441.301(c)(4)(ii)</p> <p><input checked="" type="checkbox"/> Yes</p>	<p>Settings are selected by the individual from among setting</p>	<p>Setting options are discussed with individuals as part of the person-</p>

<input type="checkbox"/> Partial <input type="checkbox"/> No	<p>options including non-disability 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>centered planning process. The agency is also CQL (Council on Quality and Leadership) accredited and utilizes Personal Outcome Measures (POM) to assist in determining individuals' desires and preferences. The agency has policies and procedures related to objecting to services and due process.</p> <p>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>On site reviews by DQI staff have determined that staff at this day program ensure the privacy and dignity of individuals and the site complies with this HCBS requirement.</p> <p>Individuals are encouraged to self-advocate. This was confirmed through review of monthly self-advocacy meeting minutes provided by the agency.</p> <p>The site has policies and procedures to evaluate and ensure the satisfaction of individuals, as evidenced by the group day habilitation satisfaction survey results provided by the agency.</p> <p>Individual experience surveys conducted with several individuals attending this day program also confirmed that they feel their dignity and privacy is respected.</p>
<p>42 CFR 441.301(c)(4)(iv)</p> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> Partial <input type="checkbox"/> No	<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>The site is in the process of implementing a remediation plan that addresses individual satisfaction, support for individuals to exercise control over their lives, engage in meaningful activities, and ensuring individual schedules and routines are determined based on choice and needs. Site management are completing program observations, reviewing community activities, and holding bi-weekly meetings with staff on topics identified in their remediation plan. The</p>

		site has also purchased additional vehicles for the site and have increased staff recruitment efforts to ensure adequate staffing to ensure compliance with HCBS Settings requirements. Full compliance is expected by March 17, 2023.
<p>42 CFR 441.301(c)(4)(v)</p> <p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> Partial <input type="checkbox"/> No</p>	Settings facilitate individual choice regarding services and supports, and who provides them.	<p>Settings options are discussed with individuals as part of the person-centered planning process. 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>The site is in the process of implementing a remediation plan that addresses support for individuals to exercise control over their lives and individual satisfaction. Site management are completing program observations, reviewing community activities, and holding bi-weekly meetings with staff on topics identified in their remediation plan. The site has also purchased additional vehicles for the site and have increased staff recruitment efforts to ensure adequate staffing to ensure compliance with HCBS Settings requirements.</p>

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 type="checkbox"/> Yes <input checked="" type="checkbox"/> Partial <input type="checkbox"/> No</p>	Individuals have the freedom and support to control their schedules and activities; and have access to food any time.	The site is in the process of implementing a remediation plan that addresses freedom and support to control their own schedules. Site management are completing program observations, reviewing community activities, and holding bi-weekly meetings with staff on topics identified in their remediation plan. The site has also purchased additional vehicles for the site and have increased staff recruitment efforts to ensure adequate staffing to ensure compliance with HCBS Settings requirements.

<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>The site supports individuals having visitors to the site at any time. This was confirmed through review of Individual Experience Surveys.</p>
<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>Individuals are able to access all areas of the facility. This was confirmed through review of Individual Experience Surveys.</p>
<p>42 CFR 441.301(c)(4)(vi)(F)</p> <p><input checked="" type="checkbox"/> Yes <input 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 agency has policies and procedures on ensuring the rights of individuals, on informed consent and on protections that must be implemented and documented appropriately.</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 type="checkbox"/> Partial <input type="checkbox"/> No <input checked="" 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 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>	<p>Not applicable, as this is a certified day habilitation site and not a certified residential site.</p>
<p>42 CFR 441.301(c)(4)(vi)(B)</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> Partial <input type="checkbox"/> No <input checked="" type="checkbox"/> Not Applicable</p>	<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</p>	<p>Not applicable, as this is a certified day habilitation site and not a certified residential site.</p>

	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.	
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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: 3/3/2020

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:

Oswego Industries Day Habilitation is located on a dead-end street near residential homes and industrial businesses. Oswego Industries is located on the west side of the city between a river and a lake. The exterior of the site looks similar to the other businesses in the area and is of similar size. Oswego Industries has a nature trail with a gazebo, flowers near the front entrance, and most years has raised garden beds. There is a deck which will have an adaptive swing set installed this summer. Additionally, there is a patio with picnic tables where people often have lunch in warm weather. The day habilitation site is within walking distance of some stores and the YMCA. External services on site are a background check site, bus company, and a clinic. There are agency offices located at the same Services. The vocational training opportunities at this location that are offered through the prevocational program involve real work activities available to people both with and without disabilities. Individuals at this day habilitation enjoy frequenting the town park and an accessible park (located within 15 minutes of the day habilitation site), which have flat and paved loops to walk, playgrounds with swings, and picnic tables. Individuals also enjoy frequenting another local park about 20 minutes away which has fishing, a paved walking trail, a pavilion, and swings. Individuals also visit a state park about 30 minutes away with a sandy beach, picnic areas, and fishing. Tunes in June is a local event every Wednesday in June where individuals at the day habilitation site can join locals in town and listen to live music. Individuals regularly swim or play basketball at the YMCA and bowl at the local bowling alley. Individuals at the day habilitation site also enjoy frequenting Dunkin

Donuts often, as well as Wal-Mart, dollar stores, and fast-food locations. The Wild in Chittenango and the Rosemond Gifford Zoo in Syracuse are favorite community activities for individuals. Individuals also attend activities at the NYS Fairgrounds, including the NYS Fair, tractor shows, RV shows, and more. Many individuals access various libraries in the area. The local mall is easily accessible to individuals and offers a \$1 movie day on Tuesdays during the summer months where individuals often enjoy the air-conditioned theater on hot summer days. This site has struggled to maintain adequate staffing levels and have not had enough transportation available to ensure various aspects of compliance with the HCBS Settings Rule. The site has a remediation plan in place that addresses achieving compliance with these requirements. The remediation plan will be validated by OPWDD's Division of Quality Improvement (DQI) staff and full compliance is expected to be achieved by March 17, 2023. The site has purchased additional vehicles and has launched staff recruitment efforts to increase staffing levels. They have also implemented more checks and balances internally to ensure compliance with having access to the broader community, individual satisfaction, individualized schedules, engagement in meaningful activities, and individuals exercising control over their lives.

Section Two

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

Individual Interviews:

Individual Experience Surveys conducted found that individuals report that they are content, treated well, and supported at the site. Participants and guardians report that individuals can request certain activities to participate in and have input on what they choose to do each day.

Individual A has been receiving services at the site since 2017, and enjoys shopping, going out to eat, and bowling. They choose to spend their money on candy and like to spend their free time making jewelry, painting, coloring, doing arts and crafts, building with Legos, and going for walks. Individual A's personal valued outcomes surround independence and communication within the community, and strategies to support these are carried out. They report being able to spend their money on the things they want and have control over their own schedule.

Individual B enjoys dining out for lunch, going for walks, and playing basketball. Their personal valued outcomes revolve around regaining independence, choosing their own schedule, and doing fun or interesting things out in the community. Individual B is able to achieve these goals by spending time at the movies, playing games, doing arts and crafts, and going on the swings. They also enjoy volunteering, socializing at church, and working at the café next door.

Individual C spends their time dining out for lunch, taking walks in the park, playing games, and riding their bike. They like to do arts and crafts and enjoy socializing with the day habilitation staff and their peers. Individual C mentions that attending Oswego Industries makes them very happy and they can work on their goals while participating in group activities with their friends.

Individual D spends their days bowling, fishing, going out to lunch, riding their bike, joking with staff, playing on their iPad, and doing work tasks in the center. Valued outcomes for individual D are to focus on independence while receiving day habilitation services as well as freedom of schedule design. They noted during an interview that they prefer to learn things on their own but know that they can ask for help when necessary. Individual D mentioned that their favorite part about attending the Oswego Industries day habilitation program is the staff.

Employee Interviews:

Regarding day-to-day services, staff report that individuals can decide whether to attend each group activity and are given a choice between multiple different locations each day. Some specific activities offered include routine coffee hours, library visitations, bingo games, local art programs, YMCA exercise classes, and festivals during the summer. In addition to these day-to-day activities, individuals also enjoy attending several activities and events throughout the year. This includes attending holiday parties, going on camping trips, and enjoying sports games as large or small groups. When individuals are not participating in community activities, Oswego Industries staff aim to empower individuals through programs that focus on strengthening interpersonal relationships, increasing independence skills, learning household tasks, and attending self-advocacy meetings. These programs help empower individuals to attain their goals independently with minimal support from the staff. Self-advocacy meetings are very interactive and have varied activities like hot cocoa parties, service satisfaction surveys, peer support discussions, holiday sock exchanges, officer elections, pizza parties, and guest agency presentations. Additionally, birthdays are celebrated at each monthly meeting. Agency management report that people supported have been encouraged to utilize community resources and to provide feedback in community revitalization activities to ensure representation and engagement in making their community as accessible and engaging as possible for all people in the community. This is an exciting time for the community as it goes through economic development and community revitalization. The city where the day habilitation site is located has been the recipient of a \$10 million Downtown Revitalization Initiative (DRI) grant to revitalize and improve the downtown area to be more attractive to business development and to increase community access. In addition, the City has received more than \$1.75 million dollars to improve the local Marina and to develop historical walking trails along the waterfront. The agency's ongoing work to support and engage in these efforts has resulted in an architectural firm, charged with guiding this process, reaching out to agency sites to meet in small groups with people supported at Oswego Industries and Direct Support Professionals for feedback on how they engage in the downtown, suggestions for infrastructure improvements to make development more accessible and integrated, as well as to provide feedback on what kinds of businesses would bring people downtown more. The feedback provided by the agency's focus groups has been shared directly with the decision makers without any review by agency administration. That this kind of direct feedback and influence from individuals served is being solicited and shared is something that the agency is very proud to share.

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. Photo of the Outside of the Site
2. Email on Ensuring Person-Centered Outings
3. August 2018 Activity List
4. Self-Advocacy Minutes
5. Proof of CQL accreditation
6. August 2018 Outing List
7. Group Day Habilitation Survey 2019
8. Heightened Scrutiny Response from Oswego Industries for their Group Day Habilitation program
9. The Oswego Industries Arc Buzz Newsletter V4I1 Jan. 2020
10. Personal Outcome Measures Presentation for Staff

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.