

Heightened Scrutiny Evidence Packet

Setting Information

Provider Name:

Suffolk County NYSARC Inc., Site 1

Location of Setting: Shoreham, NY 11786

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.):

The setting is in the same building as a privately-operated facility that provides inpatient institutional treatment (Intermediate Care Facility for I/DD). Currently, all individuals attending this site reside in an Intermediate Care Facility and therefore do not receive Home and Community Based Services. The setting remains subject to Heightened Scrutiny as the setting is authorized by OPWDD to provide Home and Community Based services.

Provider Compliance Summary

Requirements for All HCBS Settings

Compliant?	Federal Requirement	Summary
<p>42 CFR 441.301(c)(4)(i)</p> <p><input checked="" type="checkbox"/> Yes <input 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 setting supports individuals to have full access to the greater community. This is supported by the site’s monthly council meetings where individuals discuss what community events and activities that they would like to participate in over the next month. Individuals have control over their personal resources and make purchases in the community on a regular basis, with support from staff.</p>

		The site also submitted an example of an activity schedule that details what activities an individual has participated in over the course of months while at the day habilitation program as supporting documentation.
<p>42 CFR 441.301(c)(4)(ii)</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> Partial <input type="checkbox"/> No</p>	Settings are selected by the individual from among setting 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.	This is a day habilitation site. Alternative non-disability specific setting options are discussed with individuals as part of the person-centered planning process. The agency is Council on Quality and Leadership (CQL) accredited and utilizes Personal Outcome Measures (POM) to ensure needs and preferences of individuals are at the center of the person-centered planning (PCP) process.
<p>42 CFR 441.301(c)(4)(iii)</p> <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>The site ensures individuals' right to privacy, dignity, respect, and freedom from coercion and restraint. Rights are reviewed with individuals as part of their person-centered planning review annually and all staff are trained on these rights.</p> <p>Additionally, the agency conducts annual satisfaction surveys with individuals and their family members/guardians which provides them with the opportunity to identify concerns. A template of this satisfaction survey for the Group Day Habilitation Program was provided by the agency as supporting documentation.</p>
<p>42 CFR 441.301(c)(4)(iv)</p> <p><input checked="" type="checkbox"/> Yes <input 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.	The site supports individual autonomy and choices in daily activities as well as who they would like to spend time with. Each person has their own daily schedule of activities that they would like to participate in. Documentation of this was submitted by the agency to provide evidence of this.

		Additionally, the day program has a council that meets monthly where individuals plan out what activities they would like to participate in that month.
<p>42 CFR 441.301(c)(4)(v)</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> Partial <input type="checkbox"/> No</p>	Settings facilitate individual choice regarding services and supports, and who provides them.	The setting facilitates individual choices in services and supports. This is discussed with individuals as part of their person-centered planning reviews. The agency submitted evidence of their CQL accreditation of "Person-Centered Excellence", which further supports the agency's strategies to foster individual choice.

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>	Individuals have the freedom and support to control their schedules and activities; and have access to food any time.	Individuals have the freedom and support to control their own daily schedules at the site and are supported by staff to have access to food at any time. Many individuals at the site require staff support when dining and can exercise choice about when and where to eat lunch. The agency provided documentation demonstrating that individuals attending the day program have their own personal activity schedules that they plan out with staff.
<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>	Individuals are able to have visitors of their choosing at anytime.	Individuals are supported at the day program site to have visitors at any time. The agency states this in the Program Handbook that is provided to individuals and families upon admission to the program.
<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>	The setting is physically accessible to the individual. (Not modifiable)	The setting is physically accessible to individuals at the site. It is on the ground floor and is wheelchair accessible as well.

<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 rights restrictions and ensures that any modification to those rights is supported by assessed need, justified, and documented appropriately in the person's plan. This was confirmed in the policies and procedures on rights restrictions and limitations provided by the agency.</p>
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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 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</p>	<p>Not applicable, as this is a certified day habilitation site and not a certified residential site.</p>

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: 6/1/2021

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:

The day habilitation program is situated in a wooded area of a suburban neighborhood surrounded by frequent sightings of wildlife. The day program is adjacent to a residential provider of another local agency. The facility is across the street from a town senior center, public school, and library. The commercial village is about 2 miles down the street and provides options for shopping, restaurants, banking, post office, realty, medical professional parks, and other small business establishments.

There is limited public transportation available in this geographic area, however, the agency does utilize their own transportation vehicles. The day program building blends into the residential cul-de-sac with consistent architectural design that uses natural tones to blend into the park-like natural surroundings. The agency designed a community sensory garden and gazebo at the site that is open to the public which provides the central focal point to the property as you enter the facility's parking lot. The site is ground level, barrier free, and there are no floors above it. Many individuals who attend this day program require a barrier free environment and utilize wheelchairs for mobility. Each area of the day program is uniquely decorated by individuals attending the day program and is updated on an ongoing basis based on the season, upcoming holidays, and the varied interests of individuals.

Although this day habilitation program operates within the same building as an Intermediate Care Facility (ICF), the ICF is now operated by another agency. This means that the day program is independent of the ICF and has separate and distinct staffing and transportation. All of the individuals attending the day program live at the ICF. Individuals determine their own schedules, as they are free to sleep in and come to the day habilitation program when they want or go home to rest and return later if they choose.

Individuals have access to all areas of the facility, although many require support from staff due to mobility issues. Individuals typically have lunch together at the facility but can choose to eat at a different time and/or location in the facility if they want.

Section Two

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

Individual Interviews:

Individual A enjoys crafting and participating in an Emeril's Cooking Club at the day habilitation site. They also enjoy shopping for food and crafting supplies in the community, as well as trips to Target. Individual A typically enjoys a community activity once per week but sometimes more often. They have shopped at various stores such as Wal-Mart, Michael's, Stop & Shop, Dollar Tree, etc., They have attended various plays, and frequent the local church food pantry to bring appreciation bags to local police officers. During day habilitation, Individual A also visits a friend at a local nursing home on a regular basis, enjoys using their wheelchair to go on a River Walk at a local river, goes bowling at a local rink, and visits a local ecology site. Individual A also attends a creative painting class, enjoys the day habilitation site's sensory garden, and loves it when the neighborhood high school students come to perform every month at the site. It is the same students from the high school's Music Theory class who attend each month and over time, the students have established a good relationship with individuals at the day habilitation program. Individual A has valued outcomes related to preventing regression in self-care, preventing regression in mobility skills, and preventing regression with communication skills. Individual A relies heavily on staff for management of personal funds, eating, and mobility. Individual A is also supported by their family to exercise their rights.

Individual B requires 1:1 staff support due to sensory impairments. Individual B likes to go to the beach to feel the sand on their feet and sun on their face. They enjoy going to the aquarium to put their hands in the sting ray tank to feel the sting rays. They enjoy going to the farm stands to feel and smell the different fruits and vegetables. They even enjoy going shopping and being able to push the carts through the stores with the help of their staff. Individual B has gone to the beach, frequents various stores such as Wal-Mart, Target, and Five Below, the Park, a creative painting store, an ecology site, the Sensory Garden at the day habilitation site, Dunkin Donuts, a local River Walk, the museum, a local church to experience the Nativity scene and loves it when the local High School students come to perform. It is the same students from Music Theory class who attend each month and over time, they have established a good relationship with individuals at the day habilitation program. Individual B likes to spend their money on donuts, ice cream, and sensory games. Individual B likes to stay active and enjoys the outdoors. Individual B has valued outcomes related to increasing their independence in several areas. Individual B relies on staff support for assistance with dining and management of personal funds.

The day habilitation site routinely holds "council" meetings to ensure participant interests are included when planning activities. Review of council meeting minutes reflected the interests of individuals in attending a zoo in NYC to see the baby gorillas, getting Chinese food in NYC, attending a tree lighting ceremony, and visiting the local bakery for strawberry shortcake and chocolate pudding. They also discussed sensory activities for Individual B who is blind and has limited hearing. Individual B enjoys activities that are tactile and interactive and enjoys touching, pulling, wrapping, and pushing objects. They discussed activities that Individual B would enjoy such as creating sensory blankets with different textures, colors, such as old denim, washcloths, skirts, etc. Individual B has a habilitation goal to increase their independence with communication skills through choosing preferred sensory items. They also discussed purchasing merino wool and making hair wrap accessories with different fabrics and yarn to tie around the hair wraps and sew extension clips onto them to sell them at the craft fair

Employee Interviews:

Staff report that individuals frequently choose to use the local library and they enjoy inviting the students from the high school across the street to visit, performing band & chorus routines. The local funeral home has partnered with AHRC to donate flowers that the individuals rearrange and volunteer to distribute to community nursing homes. The day program participates in other ongoing community volunteer activities including, but not limited to shopping & collecting items for local food pantries and religious outreach organizations. The day program enjoys many nearby cultural events including the ballet, and local museum. They frequent the local aquarium, Petco, and Country Critters. They enjoy bowling and shopping at Bed Bath and Beyond, Dollar Tree, AC Moore, Stop n Shop, and many other stores.

The agency received CQL's Person-Centered Excellence accreditation in January of 2020. New and existing staff receive extensive training on utilizing CQL's POMs. New staff receive training on POMs within three months from their date of hire and annually thereafter. Staff support each person with completing their own unique " My Personal Page". This exercise helps the individual explore their likes, preferences and then communicate those preferences with other members of their circle of support team. The agency reports that staff support each person to recognize their rights & responsibilities with a picture tool & assessment. Individual Rights are communicated to individuals at the site in plain language. Staff report that they continually educate individuals as to their rights as teachable moments present themselves in daily life. Supporting choice is an ongoing fluid process that occurs daily. On or near the time of an individual's annual meeting, a review of the Rights Picture Tool is completed in conjunction with the review of the Rights and Responsibilities policy and procedure, as well as the Objections to Services policy and procedure. These are reviewed with the individual and documented by designated program staff. If the individual is unable to understand the information reviewed, the Rights and Responsibilities policy and procedure, along with the Objection to Services policy and procedure will be mailed to the address on file for the legally authorized representative and/or advocate. The agency reports that they utilize an annual satisfaction survey that is completed by individuals at the day habilitation site as well as their family members and/or guardian. There are also monthly council meetings for the site, where elected individuals attending that day habilitation report out on upcoming activities and community events that they would like to attend and participate in.

In addition to extensive training on CQL's POMs, new staff working at the site also receive extensive training on NADSP's Core Competencies and OPWDD's DSP (Direct Support Professional) Code of Ethics within three months from their date of hire, as well as how to balance safety and security with dignity of risk. New staff receive training on how to incorporate dignity and respect into interactions with people they support, supporting informed choices and human rights. Staff also receive annual refreshers on these topics thereafter.

The agency has an internal quality improvement tool that is utilized in the day habilitation program. Elements of individualized choice, autonomy, and satisfaction are incorporated into the tool and reviewed for individuals at the site. This tool also verifies whether there are adequate staff available to support each individual's participation in individualized and personally meaningful community activities and full access to the broader community as well as engagement in activities that are meaningful to individuals at the site. Rights and protections at the site are also reviewed as part of this internal quality improvement tool.

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. Picture of site entrance
2. Shoreham Council Minutes for Shoreham Day Hab: Self- advocacy meetings
3. Personal Page-Activity Schedule-Activity Log example for an individual at the program
4. Annual Rights Policy and Procedure
5. Day Program Handbook: Rights, Responsibilities, Objection to Services, Policies
6. Monthly Core Competencies for Direct Support Professionals
7. CQL Award Letter for NYSARC, Inc - Suffolk Chapter (AHRC Suffolk)-Person Centered Excellence
8. CQL POM slides for staff
9. Internal Quality Improvement Protocol for day habilitation
10. Group Day Hab Program Satisfaction Survey

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.