



Revised June 18, 2015

### Summary of Adult Residential CMS HCBS Settings Rule Site Visits:

The Center for Medicare and Medicaid Services (CMS) issued a final rule that became effective on March 17, 2014 and requires states to review and evaluate Home and Community-Based Services (HCBS) settings, including residential and nonresidential settings that are paid for with funding through North Dakota's six Medicaid 1915(c) waivers. States are required to ensure all HCBS settings comply with the new federal requirements to ensure that all individuals receiving HCBS are integrated in and have full access to their communities, including opportunities to engage in community life, work in integrated environments, and control their own personal resources.

Adult Residential Care is a 24 hour service provided in a residential setting focusing on people with memory loss and traumatic brain injury.

The Department conducted site visits to all Aged and Disabled Waiver adult residential service providers to assure compliance with the HCBS settings requirements. The onsite visits included a tour and discussion about facility operations and policy with key staff, including Agency Administrators.

The following facilities were reviewed for settings compliance: Edgewood Bismarck Senior Living, Edgewood Fargo Senior Living, Edgewood Mandan LLC, Edgewood Minot Senior Living, Emerald Court II Inc., Ecumen-Evergreens of Fargo, HIT INC-Dakota Pointe, Lakewood Landing Inc., Maple View Fargo, Maple View Grand Forks, Maple View Minot, Maple View II East & North Bismarck, Open Door Residential Service Center- Hi Soaring Eagle and Roseadele.

Based on the results of these onsite assessments, the Department concluded that with changes to certain settings, all adult residential settings will fully comply with the regulatory requirements because the Department will require remedial strategies and timelines for providers to come into full compliance.

#### Summary of Key Issues:

##### Community Integration / Full Access to the Community:

Residents in all of the facilities can and do access the community. All of the memory care units have secure entrances. Residents in these facilities are free to leave however; most individuals, because of advancing dementia or other issues, need to access the community with the help of an escort i.e. family, friends or staff to assure safety. If an individual is not able to access the community by themselves because of a history of getting lost etc., the reason for the restriction must be documented and supported in the individuals person centered plan. Client restrictions are revisited at quarterly meetings to assure they remain appropriate.

All facilities reported offering activities and outings outside of the facility; for example, going for drives, to the zoo etc. In addition, residents are free to attend church services, go to a beautician, sporting events etc. outside of the facility. All facilities provide residents with access to television, radio and newspapers to find out about community events that may interest them. Many of the facilities also have access to the internet.

The majority of individuals living in the adult residential facilities are of retirement age. Only one adult residential setting reported that any of their recipients worked or volunteered in the community. Both of the traumatic brain injury adult residential agencies reported that all of their residents either work in a competitive employment setting in the community or were actively seeking competitive employment.

Recipients, guardians or family control the personal finances of adult residential recipients. Some of the memory care facilities have accounts that clients/guardians can set up at the facility. The resident/guardian requests funds from the account and the facility provides receipts for all transactions.

#### Setting and Service is Chosen by Recipient:

When an individual is found eligible to receive adult residential services that will be paid through the home and community based services waiver, they make an independent decision about where they want to receive their care. All adult residential service providers reported that residents and their families can visit the facility prior to making a decision about whether or not to move in. Tours of the facility are offered.

All facilities reported that if an individual does not want to receive care from a certain staff person because of a personality conflict or other issue, they will make accommodations to change staff. Eight of the facilities have single occupancy rooms only. Seven of the facilities have shared rooms and Six would accommodate a request to change roommates. One of the facilities only has one shared room. If there were no other vacant single rooms available, they could not accommodate that request.

#### Freedom from Coercion and Restraint

None of the facilities use restraints. All facilities have a written grievance policy, follow the basic care resident rights rules, and receive regular visits from the Ombudsmen. All facilities accept anonymous complaints. Grievance procedures are discussed upon admission. In addition, the HCBS Case Manager is required to conduct a quality review with all Medicaid recipients to assure that the client is aware of their rights and receiving quality care.

#### Legally Enforceable Agreement

The State required adult residential providers to submit their lease/rental agreements for review by DHS Legal Advisory unit. Fourteen of the adult residential facilities had a signed legal agreement that met the standards for eviction in ND. One facility did not have legal agreements but has since secured a rental agreement with all Medicaid recipients. The HCBS Case Manager is responsible to assure that the client has a legally enforceable rental agreement annually.

#### Privacy in sleeping or living unit

Not all adult residential recipients utilize locks on their doors because of health and safety issues due to the cognitive or functional impairments of the recipient. Twelve of the adult

residential facilities have locks on the door of the recipient's private area. The three facilities that do not currently have locks will accommodate a request for a lock if it does not pose a health and safety risk to the recipient. If a recipient is restricted from having a private area that locks, the individual's person centered plan must clearly indicate why. The issue must be revisited at each quarterly visit to assure the restriction remains appropriate.

Seven facilities have shared rooms and only one has a wall between the sleeping areas to allow for privacy in the recipient's living area. The Department is working with each facility to address this issue and will request that they make appropriate accommodations for privacy in the shared rooms of MA recipients.

#### Freedom to support schedule and activities and access to food

Individuals are not required to adhere to a set schedule of waking, bathing, eating, and activities. Residents are informed of their rights during admission and are encouraged but not required to participate in group activities etc.

All but one facility reported that clients have access to food/snacks at any time. The facility that does not allow unrestricted access to food reported that food access is restricted because of the number of recipients who do not remember to stop eating etc. This facility does have a human rights committee and all restrictions are reviewed. The Department will work with the recipient's HCBS Case Managers to assure that any restriction of food is documented in the person centered plan. All restrictions must be revisited quarterly to assure they continue to be necessary.

All facilities reported that recipients can eat their meals at alternate times if they choose. If residents do not like the entree choice they are provided something else.

Some providers reported that the current basic care licensing laws prevent them from allowing a client to take a meal prepared by the facility back to their room so they can eat in private. The Department is working with the Department of Health to resolve this potential licensing issue and will provide direction to the facilities.

#### Access to visitors at anytime

All of the facilities allow visitors at any time and all have agreed to allow overnight guests. All of the facilities had a phone that was available to client at all times and some of the residents have private phones in their room or use cell phones.

#### Unrestricted Access / Setting is physically accessible

All of the facilities are physically accessible there were no obstructions such as steps, lips in doorways, narrow hallways etc. limiting the individual's mobility.

#### Any Modifications/ Restrictions Included in Person Centered Plan

Person Centered planning meetings are held quarterly. The new Medicaid Person Centered Planning process requires that recipients and/or guardians be involved. All of the facilities agreed to this policy and will be working with the HCBS Case Managers to coordinate the quarterly meetings to make it more convenient for recipients and families to attend. Any restrictions or modifications that are placed on the individual because of health and safety must be clearly identified on the plan and reviewed periodically to see that they are still appropriate.

Setting Isolation:

Medicaid recipients receive services in the same part of the building as private pay individuals in all facilities. Medicaid recipients are not restricted from any area of the building or from any service. All but one of the adult residential facilities is located in town close to other homes, apartments and businesses. One facility is located in a rural area but recipients access the community daily to go to work and attend community events. The majority of facilities provide their own bus for transportation and residents can access public transportation if they are able to use it. Some of the facilities that specialize in memory care are attached to independent living apartments, and assisted living apartments.

Environment supports individual comfort, independence and preferences:

All facilities have a kitchen area, laundry, and common areas where people can watch T.V., visit etc. Medical information as well as medical schedules and other appointments are kept private. During the site visits, Department staff observed how staff treated recipients and in all cases, staff interacted appropriately with recipients. In every facility recipients are free to decorate their living unit and use their own furniture.