

**Home and Community-Based Services (HCBS) Settings Rule Heightened Scrutiny Review
Evidentiary Summaries**

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EVIDENTIARY ASSESSMENT AND SUMMARY
Home and Community-Based Services (HCBS) Settings Rule
Heightened Scrutiny Review – Community-Based Residential Facility (CBRF)

<i>Facility Name</i> Aspirus Cedar Lane Assisted Living Apartments		<i>Facility Type</i> Community-Based Residential Facility (CBRF)	
<i>Corporate Name (if applicable)</i> Aspirus Medford Hospital and Clinics		<i>License/Certification #</i> 610071	<i>County</i> Taylor
<i>Facility Address</i> 135 South Gibson Street	<i>City</i> Medford	<i>State</i> WI	<i>Zip Code</i> 54451
<i>Primary Contact Name:</i> Mallori Strama	<i>Primary Contact Direct Phone (incl. area code)</i> 715-748-8144	<i>Primary Contact Email Address::</i> Mallori.strama@aspirus.org	
<i>Facility Website Address</i> www.aspirus.org			

Reason for Institutional Presumption

- Settings in a publicly or privately operated facility that provides inpatient institutional treatment. Name of institution: Aspirus Care and Rehabilitation
- Settings in a building on the grounds of, or adjacent to, a public institution. Name of institution:
- Settings with the effect of isolating individuals from the broader community of individuals not receiving HCBS waiver services.

Wisconsin State Standards and Regulations:

The Centers for Medicare and Medicaid Services’ (CMS) HCBS settings rule assumes that certain settings are not home and community-based. If a Wisconsin assisted living facility (setting) meets one of the criteria for institutional presumption as defined above, the DHS Division of Medicaid Services (DMS) conducts a heightened scrutiny review.

DMS believes that [Aspirus Cedar Lane Assisted Living Apartments](#) has overcome the institutional presumption and meets the criteria of a home and community-based services setting as summarized below.

To reinforce the extent to which Wisconsin’s licensing and certification regulations and standards align with and reinforce the HCBS settings rule, the applicable state standard or regulation is included, where applicable, with the compliance review summary below.

Facility Summary

Aspirus Cedar Lane is a CBRF attached to and operated by Aspirus Care and Rehabilitation. Located in Medford, Wisconsin, Cedar Lane consists of 10 spacious private units designed to maximize independence while ensuring privacy and security for their residents. This assisted living option allows tenants to maintain an active and independent lifestyle while having the benefit and security of daily living assistance. The majority of the residents at Cedar Lane are from Medford, a Wisconsin community of approximately 4,400 people. There are a number of activities and community programs that are available to the residents of Cedar Lane. At this writing, there are 10 residents at Cedar Lane, with six of those residents being supported with HCBS waiver funding such as Family Care, Family Care Partnership, or IRIS (Include, Respect, I Self-Direct).

The setting is integrated in and supports full access to the greater community [42 CFR § 441.301(c)(4)(i)].

The community considers the setting a part of their community and does not associate the setting with institutional services.

Met Unmet Not Applicable

- A review of Cedar Lane’s promotional brochure and marketing materials confirms that Aspirus is “A non-profit, community-directed health care system.” “Cedar Lane apartment living programming and services maximize independence and the assisted living option allows tenants to maintain an active, independent lifestyle while having the benefit and security of daily living assistance.”
- A cover letter was submitted which provided examples of community awareness and engagement with Cedar Lane:
 - Activities are offered to the residents of Cedar Lane: the Smelt Fry is a large community event. Residents from Cedar Lane regularly attend, and two residents volunteer.
 - Residents enjoy local activities: Movie night or dining out night at Culvers.
 - A family questionnaire was developed to solicit responses from family members and residents on their views of Cedar Lane. One family member commented “If Mom has been on an outing, she refers to Cedar Lane as home.”

Individuals, to the extent they desire, have opportunities to participate in typical community life activities outside of the setting.

Compliance within Wisconsin State Standards and Regulations:

Person-Centered Planning: The plan must be based on an assessment that addresses the person’s “capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known” and “social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs.” (Summarized from [Wis. Admin. Code § DHS 83.35](#))

Program Services: Community activities. The CBRF shall provide information and assistance to facilitate participation in personal and community activities. The CBRF shall develop, update and make available to all residents, monthly schedules and notices of community activities, including costs. ([Wis. Admin. Code § DHS 83.38\(1\)\(d\)](#))

Family and social contacts: The CBRF shall encourage and assist residents in maintaining family and social contacts. (Wis. Admin. Code § DHS 83.38(1)(e))

Met Unmet Not Applicable

- Person-centered planning for the residents at Cedar Lane encourages involvement, where possible, with the family members of every resident. Residents are free to come and go and attend outings in the community, vacation opportunities with family, dining out with friends and family. Families and friends are encouraged to participate in Cedar Point activities both in-house and in the greater community.
- Examples of community opportunities and participation were evidenced through a review of person-centered plans:
 - One resident still participates in Wisconsin’s deer hunting season and hunts each year with his family.

- Another resident’s plan indicates that she sings in the local church choir each week.
- One resident vacations every year at the family cabin in the northern Wisconsin.
- The Cedar Lane activity department hosts monthly Resident Council meetings specifically to discuss and plan for activities in the community.

Activities are individualized or include more than just setting-based group activities

Met Unmet Not Applicable

A review of the submitted person-centered plans highlights individual interests, hobbies, and activities that residents would like to participate in and attend, e.g., one resident still keeps her membership in the local sewing club at her church.

The setting supports access to community activities through its own transportation or coordination of transportation options.

Met Unmet Not Applicable

- The Aspirus Cedar Lane CBRF *Admission Agreement and Scope of Services-Social Services* indicate that the setting has transportation available for group activities in the community.
- Staff will also work closely with family members, friends, and volunteers to arrange transportation for resident appointments in the community.

Individuals, if they choose, have opportunities to seek employment and work in competitive integrated settings.

Compliance within Wisconsin State Standards and Regulations:

Person-Centered Planning:

The plan must be based on an assessment that addresses the person’s “capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known” and “social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs.” ([WI Statewide Transition Plan](#); Summarized from [Wis. Admin. Code § DHS 83.35](#))

From contract between DHS and specific MCOs:

V. Care Management:

C. Assessment and Member-Centered Planning Process

C.1. Comprehensive Assessment

C.1.(c) Documentation: The comprehensive assessment will include documentation by the IDT staff of:

C.1.(c)(viii) An exploration with the member of the member’s preferences and opportunities for community integration including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community.

C.3. Member-Centered Planning

C.3.(c)(iv)(g) The setting in which the member resides supports integration into 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.

VII. Services

A. General Provisions

1. Comprehensive Service Delivery System

c. Serve to maintain community connections, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, and that are cost effective.

Addendum I

It is the DHS’s “expectation under this contract that benefits will be fully integrated and will afford options that foster opportunities for interaction and integration into 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 while supporting each member’s individual outcomes and recognizing each member’s preferences.”

Met Unmet Not Applicable

Residents at Cedar Lane enjoy many options for interaction and access to the greater Medford community. Although the majority of residents are retired, they are encouraged to continue their community participation as long as they choose. A couple of residents still maintain volunteer positions in their community.

Individuals are able to control their personal resources.

Compliance within Wisconsin State Standards and Regulations:

Every resident in a community-based residential facility has the right to “manage the resident’s own financial affairs, unless the resident delegates, in writing, such responsibility to the facility and the facility accepts the responsibility or unless the resident delegates to someone else of the resident’s choosing and that person accepts the responsibility.” (Statewide Transition Plan; [Wis. Stat. § 50.09](#))

Met Unmet Not Applicable

Cedar Lane’s *Resident Bill of Rights* confirms that “every resident is responsible for his/her personal items (jewelry, money, etc.)” If the resident requests that Cedar Lane store belongings in the facility’s safe, then Cedar Lane is responsible.

Choice, Independence, and Person-Centered Planning

The setting is selected by the individual from among setting options including non-disability specific settings. [42 CFR § 441.301(c)(4)(ii)]

Compliance within Wisconsin State Standards and Regulations:

Wisconsin has protections in place for Medicaid waiver participants which ensure they understand their choices. DHS waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are responsible for discussing choice of service settings with the waiver participant and family/guardian to locate the most suitable provider setting, including a discussion of living in a non-disability specific setting. In practice, the waiver agencies are complying with this requirement, and documenting and monitoring the choice of settings in the member-centered plan or IRIS support and service plan, as applicable.

In Wisconsin, the choice of setting requirement is not the initial responsibility of the provider setting. Rather the choice of setting takes place through the person-centered planning process at the waiver agency level. Waiver agencies are certified by DHS and work within the requirements of contracts with DHS. Through ongoing monitoring, Wisconsin will ensure that individuals maintain the right to choose where they reside.

Additionally, Wisconsin has protections in place through *Pre-Admission Consultation (PAC)*: <https://www.dhs.wisconsin.gov/adrc/pros/pac.htm>

“Pre-admission consultation is a service provided by Aging and Disability Resource Centers (ADRCs) to individuals who are in the process of considering or making a decision about the need to move out of his or her home in order to receive the help they need to remain independent and safe. Sometimes people are unaware that there are services and supports that can be provided right in their own home, often making a move unnecessary. Those who want to move into a nursing home or assisted living facility (such as a community based residential facility or residential care apartment complex), can find it difficult to know which facility would be the best for them or a loved one.”

Met Unmet Not Applicable

- A review of person-centered plans and admission agreements support that Cedar Lane was selected from a choice of setting options.
- Resident annual reviews also documented that this setting continues to be the setting of choice for the individual.
- Admission agreement signature pages confirm a discussion during the annual review that Cedar Lane continues to be their setting of choice.

The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and resources available for room and board. [42 CFR § 441.301(c)(4)(ii)]

Compliance within Wisconsin State Standards and Regulations:

“COMPREHENSIVE INDIVIDUAL SERVICE PLAN Individual service plan review. Annually or when there is a change in a resident's needs, abilities or physical or mental condition, the individual service plan shall be reviewed and revised based on the assessment under sub. (1). All reviews of the individual service plan shall include input from the resident or legal representative, case manager, resident care staff, and other service providers as appropriate.” ([Wis. Admin. Code § DHS 83.35 \(1\)\(d\)](#))

Met Unmet Not Applicable

- From *Supervision and Assistance for Cedar Lane CBRF Residents*: “Activities are planned to address person-appropriate activities and interests.”
- *Nutrition Therapy Manual*: “Residents are free to select their own menus and alternatives to the standard menus.”
- Additionally, there is a café on campus and a snack bar which is available to each resident.

The setting facilitates choice regarding services and supports, and who provides them. Individuals have a choice in selecting their service providers, and are not reliant on services from the institution to the exclusion of other community-based options. Individuals can choose to receive services in the community to the same degree as individuals not receiving Medicaid HCBS. [42 CFR § 441.301(c)(4)(v)].

Compliance within State Standards:

Before or at the time of admission, the CBRF shall provide written information regarding services available and the charges for those services to each resident or the resident’s legal representative. This information shall include any charges for services not covered by the daily or monthly rate...” (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.29](#))

Person-Centered Planning:

1. “Options of services, providers, and settings, including non-disability specific settings, are offered to participants in all Wisconsin HCBS programs.” (WI Statewide Transition Plan; Summarized from Wis. HCBS waivers, waiver-specific contracts, and policy documents.)
2. Residents have the right to “use the licensed, certified or registered provider of health care and pharmacist of the resident's choice.” ([Wis. Stat. § 50.09](#))

Met Unmet Not Applicable

- Cedar Lane *Assisted Living Agreement, Selection of Physician* and other health care and service options: The resident has the right to choose any licensed, certified or registered health care professional. There are healthcare and medical providers at the Aspirus campus that the resident can choose. If they utilize outside services and the social service department staff are available to assist residents in accessing community healthcare and service providers.
- CBRF residents are able to contract with home health and other third-party service providers.

The setting optimizes, but does 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. [42 CFR § 441.301(c)(4)(iv)]

Compliance within Wisconsin State Standards and Regulations:

Rights: Licensees must protect the civil rights of residents. Residents have the right to make decision relating to care, activities, daily routines, and other aspects of life that enhance the resident's self-reliance and support the resident's autonomy and decision-making. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.32](#))

Person-Centered Planning: The plan must be based on an assessment that addresses the person's capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known, and social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts, and vocational needs. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.35](#))

"The CBRF shall teach residents the necessary skills to achieve and maintain the resident's highest level of functioning." The CBRF shall provide or arrange services adequate to meet the needs of the residents including providing leisure time activities, facilitating participation in community activities, and encouraging and assisting residents in maintaining family and social contacts. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.38](#))

Rights: Residents have the right to make decisions relating to care, activities, daily routines, and other aspects of life that enhance the resident's self-reliance and support the resident's autonomy and decision making, and have the least restrictive conditions necessary to achieve the purposes of the resident's admission. The CBRF may not impose a curfew, rule, or other restriction on a resident's freedom of choice. (Statewide Transition Plan; Summarized from Wis. Admin. Code § DHS 83.32)

Met Unmet Not Applicable

- A review of the Cedar Lane CBRF *Residence Bill of Rights, Admission Agreement and Program Statement* supports the right of each resident to enjoy individual choice, autonomy, and independence in making choices about their activities, décor, living arrangements.
- *Program Statement*: Cedar Point's goal is "...to provide supervision, care, and services from Aspirus staff programs that are consistent with the needs of our residents, and which promote independence, self-sufficiency, and community involvement."
- A review of three person-centered plans demonstrated that each resident is actively involved in their care. As described under the section, Need for Family/Community Contact, a resident's person-centered plan clearly indicates that the resident is involved in his care, determines when he visits family and goes on outings. In the need/service section, the plan highlighted "authorizing/setting up transportation options for community outings of my choice."

Individuals have the freedom and support to control their own schedules and activities. [42 CFR § 441.301(c)(4)(vi)(C)]

Compliance within Wisconsin State Standards and Regulations:

Person-Centered Planning: The plan must be based on an assessment that addresses the person's "capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known" and "social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs." (Statewide Transition Plan, pg. 72; Summarized from Wis. Admin. Code § DHS 83.35)

Rights: Licensees must protect the civil rights of residents. Residents have the right to make decision relating to care, activities, daily routines, and other aspects of life that enhance the resident's self-reliance and support the resident's autonomy and decision-making. (Summarized from Wis. Admin. Code § DHS 83.32)

Met Unmet Not Applicable

- The cover letter and the Cedar Lane *Resident Bill of Rights* confirm that each resident "...come and go as they please," can choose their primary care physician and other healthcare providers, wake up when they choose, decorate their individual rooms with personal furnishings, keep a car at the facility, have visitors at any time, and participate in activities of their choosing.
- One person-centered plan review highlighted a resident's involvement with planning hunting trips with his family each year.

- Cedar Lane offers a *home* to each resident and encourages and supports that each resident has the right to choose when they eat, when they sleep, who they visit, who visits them, and what they choose to engage in.

The setting ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint, [42 CFR § 441.301(c)(4)(iii)]

Compliance within State Standards:

Rights: Residents have the right to be “treated with courtesy, respect and dignity by all employees of the facility and other providers of health care and pharmacists with whom the resident comes in contact.” ([Statewide Transition Plan](#), pg. 72; Summarized from [Wis. Stat. § 50.09](#))

Residents must be provided with “physical and emotional privacy in treatment, living arrangements, and in caring for personal needs” including, privacy for visits by spouse or domestic partner, or to share a room with a spouse or domestic partner if both are residents for the same facility; privacy concerning health care; confidentiality of health and personal records; and the right to approve or refuse their release to any individual outside the facility. (Statewide Transition Plan, pg. 72; Summarized from Wis. Stat. § 50.09)

“Any form of coercion to discourage or prevent a resident or the resident’s legal representative from exercising any of the rights under this subchapter is prohibited. Any form of retaliation against a resident or the resident’s legal representative for exercising any of the rights in this subchapter, or against an employee or any other person who assists a resident or the resident’s legal representative in the exercise of any of the resident rights in this subchapter, is prohibited.” (Statewide Transition Plan, pg. 72; Wis. [Admin. Code § DHS 83.32](#))

In addition, each resident shall have all of the following rights: freedom from mistreatment; freedom from seclusion; freedom from chemical restraint; and freedom from physical restraints, except upon prior review and approval by DHS upon written authorization from the resident’s primary physician or advanced practice nurse prescriber. DHS may place conditions on the use of a restraint to protect the health, safety, welfare, and rights of the resident. (Statewide Transition Plan; Summarized from Wis. Admin. Code § DHS 83.32)

Met Unmet Not Applicable

A review of the Cedar Lane *Resident Rights Policy* and *Resident Bill of Rights* confirms:

- “Each resident has a right to dignified existence, self-determination and communication with and access to persons and services inside and outside the facility. Cedar Lane will protect and promote the rights of the residents.”
- “The resident is free from physical, sexual and mental abuse and neglect. He/she is also free from financial exploitation and appropriation of property.”
- Ensures each of the requirements of the HCBS Settings Rule 42 CFR § 441.301(c)(4)(iii). These requirements are confirmed through staff training and updates and clearly comply with all applicable federal, state and local laws regarding abuse/neglect, etc. As part of this policy, each resident is encouraged to sign the residents’ rights protocol that ensures the facility’s compliance with applicable statutes.

Individuals are able to have visitors of their choosing at any time. [42 CFR § 441.301(c)(4)(vi)(D)]

Compliance within Wisconsin State Standards and Regulations:

Rights: Residents have the right to private and unrestricted communications with their family, physician or other medical provider, attorney, and any other person, unless documented as medically contraindicated. The right to private and unrestricted communications includes the right to... reasonable access to a telephone for private communications; and the opportunity for private visits. (WI Statewide Transition Plan; Summarized from Wis. Stat. § 50.09)

Met Unmet Not Applicable

Resident Handbook, Resident Rights Section confirms the “Right to Private and Unrestricted Communication.” Each resident has the right to private visitors and private visits as part of a reasonable visitor policy. Additionally, the resident has the right to make and receive phone calls and each resident is assured of maximum privacy.

Individuals have access to food at any time.

Compliance within Wisconsin State Standards and Regulations:

The CBRF must provide each resident with palatable food that meets the recommended dietary allowance based on current guidelines, including at least three meals a day and a snack in the evening, or more often based on the resident’s dietary needs. If a resident is away during meal time, the CBRF shall offer food to the resident on the resident’s return. The CBRF shall make reasonable adjustments to the menu for individual resident likes, habits, customs, condition, and appetites. (Summarized from Wis. Admin. Code § DHS 83.41)

Met Unmet Not Applicable

Admission Agreement describes that each resident has three meals a day, snacks anytime, and access to food as they desire. Each resident of Cedar Lane can have a nutritional program and diet developed for them and every effort will be made to meet the individual needs of the resident. Dining and auxiliary food choices are also available at Cedar Lane and include a dining room with guest meals, a snack bar, and lounge with juices, bakery items, water, etc. Residents can also have meals set aside for them to access at different times from the scheduled dining room hours. Residents can have guests at any meal, and can also host dinners and parties for their friends and families.

Individuals occupy the setting under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity. [42 CFR § 441.301(c)(4)(vi)(A)]

Compliance within Wisconsin State Standards and Regulations:

“Each resident shall have a written agreement that is signed by and provided to each party. The agreement includes a description of the space to be provided to the resident, the agreed upon rate, a statement of the resident’s rights and the terms of termination, including timeframes. The agreement is updated annually.” ([WI Statewide Transition Plan](#), pg. 77; [Wis. Admin. Code § DHS 83.29](#))

The agreement must include terms for resident notification to the CBRF of voluntary discharge, and reasons and notice requirements for involuntary discharge or transfer, including transfers within the CBRF. (WI Statewide Transition Plan, pg. 77; Summarized from Wis. Admin. Code § DHS 83.31)
State licensed settings are subject to unannounced licensing visits, both in response to complaints and during regular oversight visits. Through ongoing HCBS monitoring, Wisconsin will ensure that individuals maintain the right to make such choices while residing in this state-licensed community-based residential facility. Additionally, the state’s long-term care ombudsman program has regular access to the setting.

Met Unmet Not Applicable

Residents at Cedar Lane have an individualized *Admission Agreement* which outlines the services provided to the resident, such as room, board, rates and personal services. Cedar Lane’s *Admission Agreement* confirms that the setting complies with all applicable laws, including the Fair Housing Act.

Overcoming Institutional Presumption

The setting demonstrated a meaningful physical distinction between the HCBS setting and the institutional setting, including separate entrances and signage, physical divisions, and differences in décor.

Met Unmet Not Applicable

- Documentation submitted for review demonstrates a strong physical distinction between the CBRF and the SNF. The CBRF is attached to the SNF though a corridor, and there is a separate entrance and signage that confirms that Cedar Lane is physically distinct from Aspirus Care and Rehab.
- Photos were submitted of resident rooms that demonstrate a home-like environment and are individually decorated. The lounge, activity areas, and dining areas are distinct from the SNF in their décor.

Each individual has privacy in their sleeping or living unit.

Compliance within Wisconsin State Standards and Regulations:

Residents must be provided with “physical and emotional privacy in treatment, living arrangements, and in caring for personal needs” including, privacy for visits by spouse or domestic partner, or to share a room with a spouse or domestic partner if both are residents for the same facility; privacy concerning health care; confidentiality of health and personal records; and the right to approve or refuse their release to any individual outside the facility. (Statewide Transition Plan; Summarized from Wis. Stat. § 50.09)

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance surveyors that the setting (DQA, [F-02138](#), HCBS Compliance Review):

1. Provides lockable key entry doors on all resident rooms, and individual keys to all residents.
2. Has a policy ensuring that staff uses facility keys to enter a resident’s room only under circumstances agreed upon with the resident.

Met Unmet Not Applicable

- Cover letter submitted that confirmed that all rooms have locks on their doors and a key is given to each resident. If the resident chooses not to have a key, documentation is in their person-centered plan. HCBS privacy and lock policies are part of the HCBS staff training.
- The *Resident Bill of Rights* confirm that each resident is entitled to privacy, including their own lock/key to their living unit.

Individual living units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.

Compliance within Wisconsin State Standards:

Locks on living unit doors allow the resident to exercise his or her right to privacy and personal choice. Staff in each residential setting should always knock and receive permission prior to entering a resident’s living space. DHS expects the residential setting to have a policy in place to ensure that staff always knock and receive permission prior to entering a resident’s room or personal living space to respect residents’ rights to privacy. Please refer to DHS’ [Frequently Asked Questions \(FAQs\) about Door Locks in Adult Long-Term Care Residential Settings](#) for additional lock-related information.

Met Unmet Not Applicable

Each resident of Cedar Lane has privacy in his/her sleeping unit, including a lockable door. Tenant privacy and lock policies, along with photos of living unit locks, were submitted for review.

Individuals sharing units have a choice of roommates in that setting.

Compliance within Wisconsin State Standards and Regulations:

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance surveyors that residents have choice of roommates (DQA, [F-02138](#), HCBS Compliance Review):

Person-Centered Planning: Family Care Provider Network, I. Access to Providers: “For residential care facilities, evidence of adequate capacity shall include identification of the availability of residential providers offering private rooms, and a process for moving an individual to a private room when one becomes available that is consistent with the member’s preferences.” ([DHS-MCO Contract, Article VIII, I\(6\)d](#))

Met Unmet Not Applicable

Not applicable as all Cedar Lane CBRF living units are private.

Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement. [42 CFR § 441.301(c)(4)(vi)(B)(1-3)]

Met Unmet Not Applicable

- The *Admission Agreement* confirms that each resident can furnish their living units as they so choose. Submitted photos confirmed that each living unit was distinct and furnished by each resident.
- Family interviews provide the following: “During this past year, the staff has accommodated Mom whenever possible if she had a specific request about her room. We recently purchased a bed and refrigerator for Mom. Since we cannot visit at present due to COVID restrictions, the staff helped Mom set up the refrigerator and bed. We have provided special bedding for Mom and the staff help her make her bed after things are laundered. I have also seen decorations and flowers in Mom’s room that others have delivered to her. If Mom has been on an outing, she refers to Cedar Lane as home.”

The setting is physically accessible to the individual. [42 CFR § 441.301(c)(4)(vi)(E)]

Met Unmet Not Applicable

The setting is physically accessible to residents. The CBRF was initially state-licensed in 1981, which included having met physical accessibility standards.

The living unit is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services: The individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the applicable landlord/tenant laws. The State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction’s landlord tenant law. [42 CFR § 441.301(c)(4)(vi)(A)].

Compliance within Wisconsin State Standards and Regulations:

“Each resident shall have a written agreement that is signed by and provided to each party. The agreement includes a description of the space to be provided to the resident, the agreed upon rate, a statement of the resident’s rights and the terms of termination, including timeframes. The agreement is updated annually.” ([Wis. Admin. Code § DHS 83.29](#))

The agreement must include terms for resident notification to the CBRF of voluntary discharge, and reasons and notice requirements for involuntary discharge or transfer, including transfers within the CBRF. (Summarized from [Wis. Admin. Code § DHS 83.31](#))

Met Unmet Not Applicable

A review of Cedar Lane *Resident Bill of Rights* confirms that there is a written agreement in place for each HCBS resident that outlines room, board, grievance procedures, according to state laws.

Operational Distinction

The setting demonstrated meaningful operational distinction between the institution and the community-based setting, such as minimal administrative and financial interconnectedness.

Met Unmet Not Applicable

- The organizational chart submitted states that the Administrator oversees Senior Care Services at this campus, including the SNF, Cedar Lane CBRF and Country Gardens RCAC.

- The *Aspirus Care Budget* and *Cedar Lane Budget Worksheet* confirm that there are separate cost and setting allocations for Cedar Lane apart from the SNF and campus.
- Organizational charts and staffing schedules confirm that there are separate staffing levels and personnel for Cedar Lane from both the RCAC and the SNF.
- The reviewer viewed organizational charts and staffing schedules, and confirmed that there is minimal interconnectedness at the management and administrative levels for the settings.

There is a distinction between staff for the HCBS setting and the institutional setting. Staff working in the HCBS setting receive initial and ongoing training on HCBS settings rule requirements and principles, and person-centered planning.

Met Unmet Not Applicable

- The *Staff Orientation* checklist includes a written HCBS training curriculum to confirm and highlight the HCBS settings rule.
- Staff are trained in HCBS person-centered care and settings rules.
- Cedar Lane’s training curriculum was submitted for review, and confirms that staff are trained in patient ethics, privacy and security, choice for residents, and patient rights under the HCBS settings rules.
- Staff who work in Cedar Lane do not work in the SNF.

DHS Recommendation

Wisconsin can attest that Aspirus Cedar Lane Assisted Living Apartments possesses the required home and community–based characteristics, is not isolating in nature, and overcomes the presumption of having institutional qualities.

Please note that these findings are preliminary only and must receive final approval from CMS.

In accordance with federal requirements, all compliance results will be made public by DHS. The decision will appear on the subsequent upload of facility information to DHS websites, including the [DQA Provider Search webpage](#) and the provider directories available at the [Consumer Guide to Health Care – Finding and Choosing an Assisted Living Facility webpage](#).

Ongoing Compliance

Wisconsin’s Division of Quality Assurance (DQA) will ensure through ongoing compliance reviews that Aspirus Cedar Lane Assisted Living Apartments continues to meet the requirements of the HCBS Settings Rule. The DMS Bureau of Assisted Living (BAL) has incorporated the HCBS settings rule into its current assisted living survey process and activities. ([DQA Implementation of Home and Community-Based Services Settings Rule in Residential Assisted Living Facilities](#))

Waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are certified by the Wisconsin Department of Health Services (DHS) and work within the requirements of contracts with DHS. State licensed settings are subject to unannounced licensing visits, both in response to complaints and during regular oversight visits, by the state licensing authority, or by the entity that certified the provider if not regulated by the state. As part of these periodic licensing or certification reviews, the credentialing entity will also review the setting for continued HCBS compliance. Providers will be required to address any HCBS rule deficiencies.

When HCBS participants are resident in the setting, waiver program care managers are required to have ongoing contact, including face-to-face visits, at which time any areas of concern would be identified and addressed. Each participant in a Medicaid home and community-based waiver program is further protected through the state’s long-term care ombudsman program, which has regular access to the assisted living setting. [Wisconsin’s Board on Aging & Long Term Care](#): The Board on Aging and Long Term Care advocates for the interests of Wisconsin’s long-term care consumers, informs those consumers of their rights and

educates the public about health care systems and long-term care. The Board also operates the [Long Term Care Ombudsman](#), and [Volunteer Ombudsman](#) services.

EVIDENTIARY ASSESSMENT AND SUMMARY
Home and Community-Based Services (HCBS) Settings Rule
Heightened Scrutiny Review – Residential Care Apartment Complex (RCAC)

Facility Name <i>Autumn Village Assisted Living</i>		Facility Type <i>Residential Care Apartment Complex (RCAC)</i>	
Corporate Name (if applicable) <i>American Lutheran Community Services</i>		License/Certification # <i>0013043</i>	County <i>Dunn</i>
Facility Address <i>915 Elm Avenue E</i>	City <i>Menomonie</i>	State <i>WI</i>	Zip Code <i>54751</i>
Primary Contact Name <i>David West</i>	Primary Contact Direct Phone (include area code) <i>(715) 235-3697</i>	Primary Contact Email Address <i>David.West@americanlutheranhomes.com</i>	
Facility Website Address https://www.americanlutheranhomes.com/			

Reason for Institutional Presumption

- Settings in a publicly or privately operated facility that provides inpatient institutional treatment. *American Lutheran Home – Menomonie Unit*
- Settings on the grounds of, or adjacent to, a public institution. Name of institution:
- Settings with the effect of isolating individuals from the broader community of individuals not receiving HCBS waiver services.

The Centers for Medicare and Medicaid Services' (CMS) HCBS settings rule assumes that certain settings are not home and community-based. If a Wisconsin assisted living facility (setting) meets one of the criteria for institutional presumption as defined above, the DHS Division of Medicaid Services (DMS) conducts a heightened scrutiny review.

DMS believes that *Autumn Village Assisted Living* has overcome the institutional presumption and meets the criteria of a home and community-based services setting as summarized below.

To reinforce the extent to which Wisconsin's licensing and certification regulations and standards align with and reinforce the HCBS settings rule, the applicable state standard or regulation is included, where applicable, with the compliance review summary below.

Facility Summary

Menomonie, population 16,500, on I-94 just west of Eau Claire and 70 miles from Minneapolis-St Paul, is located in the Red Cedar Valley of Northwestern Wisconsin in Dunn County. The area was already heavily populated with Sioux Indians when French fur traders began their exploration of northwestern Wisconsin in the late 18th century. In 1788, Jean Baptiste Rennault set up the first trading post near present-day Menomonie and the first permanent settlement was established in Menomonie in 1830. As the lumbering industry took off in northern Wisconsin, the Knapp, Stout, & Co., said to be the largest lumber firm in the world at one time, took total control of the settlements goods, services, politics, and currency. While this offered some security during times of panic and depression, workers were completely dependent on the company to survive. The lumber company closed in 1901. Today there is outdoor recreation year around

and the proximity of the arts, shopping, and restaurants of the bigger cities provide things to do for everyone. The University of Wisconsin–Stout with 9,600 students is located in Menomonie. Autumn Village Assisted Living RCAC is attached to American Lutheran Communities Menomonie on the edge of Wakanda Park, and is designed for those who no longer want to live alone and are looking for independence, dignity and privacy within a secure setting. The American Lutheran Home – Menomonie Unit has been part of the Menomonie community for more than 55 years, opening in 1965. Autumn Village CBRF was built in 1997.

The setting is integrated in and supports full access to the greater community [42 CFR § 441.301(c)(4)(i)].

The community considers the setting a part of their community and does not associate the setting with institutional services.

Met Unmet Not Applicable

Autumn Village tenants can come and go as they please in the community and wherever they wish. They participate in community events and activities just as they did before moving to Autumn Village. They may go out on their own or with friends and family, no different than if they were in their own home. Some tenants have their own vehicle, others use the taxi or the bus, and others rely on friends and family to take them for appointments and errands. Tenants often go out with friends for senior center activities and luncheons, to their church and other organization’s luncheons and events, and to places like the library, school events like grandparents’ day, restaurants, and shopping.

Individuals, to the extent they desire, have opportunities to participate in typical community life activities outside of the setting.

Compliance within Wisconsin State Standards and Regulations

From [contract between SMA and specific MCOs](#):

ADDENDUM VI.

Personal Experience Outcomes in Long-Term Care:

Assisting people to achieve their desired individual quality-of-life outcomes is one of the primary goals of managed long-term care. The following personal experience outcome domains are the areas of life that people in long-term care programs have identified as being important to their quality of life. They provide a framework for learning about and understanding the individual’s needs, values, preferences, and priorities in the assessment and care planning process and in monitoring the quality of our long-term care programs. It is expected that each of these domains will be assessed during the member-centered planning process.

Choice – choosing:

- Where and with whom to live
- Supports and services
- Daily routines

Personal Experience – having:

- Interaction with family and friends
- Work or other meaningful activities
- Community involvement
- Stability
- Respect and fairness
- Privacy

Each participant in a Medicaid home and community-based waiver program must have a person-centered plan that, when indicated, includes any conditions that are to be applied to the conditions defined in the HCBS settings rule. (Wisconsin HCBS waivers, waiver-specific contracts, and policy documents)

Met Unmet Not Applicable

Autumn Village residents enjoy many activities, if they wish to participate, that include the local community either coming to the facility or residents going out to enjoy events off-site. A favorite activity requiring an early sign-up is the monthly bus trip, spending the day traveling the area and enjoying the seasons in rural America and a restaurant meal. Monthly casino trips, church fish fries, and pizza parties are some of the other facility-planned events. In addition, many onsite activities include an invitation to family and friends and the community in general, such as a thanksgiving dinner, "Halloween on the Hill" for which residents gather pumpkins from a local pumpkin patch, and dances and happy hour. Since many residents are from area communities, many staff members are people they know and the feeling of being home is maximized. One MCP talks about the member doing many things in the community with her sister who lives in Menomonie.

Activities are individualized or include more than just setting-based group activities.

Met Unmet Not Applicable

The ISP process for Autumn Village tenants includes discussion about activities, shopping, transportation and social relationships, thereby providing an opportunity for each resident to specify their preferences. Some residents have a car and come and go out for community activities whenever they wish, some shop with family or on their own, or join in with the facility shopping activities depending on their wishes at any given time. Tenants can choose to leave their apartment whenever they desire.

The setting supports access to community activities through its own transportation or coordination of transportation options.

Met Unmet Not Applicable

Some Autumn Village tenants have their own vehicle; others rely on family and friends for transportation. Residents can also use local taxi services. Dunn County operates a public transportation called Doorstop, a bus operating 7:30am – 5:00pm on a 65-minute loop route in the city. Passengers may call to schedule pickup times by 3:00pm the day before service or after 7:30am the day of service. Staff assist in scheduling medical transportation if desired.

Individuals, if they choose, have opportunities to seek employment and work in competitive integrated settings.

Compliance within Wisconsin State Standards and Regulations

From contract between DHS and specific MCOs:

V. Care Management:

C. Assessment and Member-Centered Planning Process

C.1. Comprehensive Assessment

C.1.(c) Documentation: The comprehensive assessment will include documentation by the IDT staff of:

C.1.(c)(viii) An exploration with the member of the member's preferences and opportunities for community integration including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community.

C.3. Member-Centered Planning

C.3.(c)(iv)(g) The setting in which the member resides supports integration into 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.

VII. Services

A. General Provisions

1. Comprehensive Service Delivery System

-
- c. Serve to maintain community connections, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, and that are cost effective.

Addendum I

It is the DHS's "expectation under this contract that benefits will be fully integrated and will afford options that foster opportunities for interaction and integration into 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 while supporting each member's individual outcomes and recognizing each member's preferences."

Met Unmet Not Applicable

Autumn Village tenants who are supported with waiver funding are involved in the development and ongoing review of their individual member centered plans. Several sections of the MCP focus on outcomes chosen by the member, including where they want to live, employment and education preferences if any, and if they choose to access and participate in the community. The facility's ISP process, also including the resident as an integral member of the team, includes sections on family contacts, likes and dislikes, social and leisure needs/preferences. The Autumn Village person-centered planning, philosophy and practices document states that the facility will offer social opportunities for its tenants to have opportunities to remain engaged in the community and with family and friends. Opportunities to volunteer on campus will be shared with tenants to encourage their purposeful engagement. If opportunities are available for the tenant in the community, tenants will be made aware of these opportunities by the staff of Autumn Village. If appropriate, the tenants of Autumn Village will be able to keep a vehicle on campus. Tenant's independence will be encouraged. If a tenant wishes to take part in a job off campus, and are able to freely do so on their own, they will be encouraged in this pursuit. The brochure lists several volunteer opportunities including the Salvation Army ring a bell program, walk to end Alzheimer's, adopt a highway program, and senior Americans day.

Individuals are able to control their personal resources.

Compliance within Wisconsin State Standards and Regulations

Each tenant has the right to manage his or her own financial affairs, unless the tenant delegates responsibility to another person or the tenant has a guardian. (Summarized from [Wis. Admin. Code § DHS 89.34](#))

From [contract between SMA and specific MCO](#):

V. Care Management:

C. Assessment and Member-Centered Planning Process

C.1. Comprehensive Assessment

C.1.(c) The comprehensive assessment will include documentation by the interdisciplinary (IDT) staff of all of the following:

- (ix) An exploration with the member of the member's preferences and opportunities for community integration including opportunities to control personal resources.

C.3. Member-Centered Plan (MCP)

C.3.(c)(iv) The MCP shall document at least the following:

- (g) The setting in which the member resides supports integration into the greater community, including opportunities to control personal resources.

Met Unmet Not Applicable

Autumn Village tenants manage their own money and use community financial institutions as they did before they moved to the RCAC. All apartments can be locked and residents have their own key, so money can be kept in the apartment if they wish.

Choice, Independence, and Person-Centered Planning

The setting is selected by the individual from among setting options including non-disability specific settings. [42 CFR § 441.301(c)(4)(ii)].

Compliance within Wisconsin State Standards and Regulations

Wisconsin has protections in place for Medicaid waiver participants which ensure they understand their choices. DHS waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are responsible for discussing choice of service settings with the waiver participant and family/guardian to locate the most suitable provider setting, including a discussion of living in a non-disability specific setting. In practice, the waiver agencies are complying with this requirement, and documenting and monitoring the choice of settings in the member-centered plan or IRIS support and service plan, as applicable.

In Wisconsin, the choice of setting requirement is not the initial responsibility of the provider setting. Rather the choice of setting takes place through the person-centered planning process at the waiver agency level. Waiver agencies are certified by DHS and work within the requirements of contracts with DHS. Through ongoing monitoring, Wisconsin will ensure that individuals maintain the right to choose where they reside.

Additionally, Wisconsin has protections in place through *Pre-Admission Consultation (PAC)*: <https://www.dhs.wisconsin.gov/adrc/pros/pac.htm>

“Pre-admission consultation is a service provided by Aging and Disability Resource Centers (ADRCs) to individuals who are in the process of considering or making a decision about the need to move out of his or her home in order to receive the help they need to remain independent and safe. Sometimes people are unaware that there are services and supports that can be provided right in their own home, often making a move unnecessary. Those who want to move into a nursing home or assisted living facility (such as a community based residential facility or residential care apartment complex), can find it difficult to know which facility would be the best for them or a loved one.”

From [contract between SMA and specific MCOs](#):

- V. Care Management:
 - A. Member Participation:
 - A.2. Members shall receive clear explanations of:
 - d. The full range of residential options, including in-home care, residential care and nursing home care when applicable.
 - e. The benefits, drawbacks and likelihood of success of each option.
 - C.1. Comprehensive Assessment
 - C.1. (ix) – An exploration with the member of the member’s preferred living situation and a risk assessment for the stability of housing and finances to sustain housing as indicated.
 - C.3. Member-Centered Plan (MCP)
 - C.3.(c)(iv) The MCP shall document at least the following:
 - (f) – The home and community-based residential setting option chosen by the member and other options presented to the member unless the member declines to consider other options.

ADDENDUM VI.

Personal Experience Outcomes in Long-Term Care:

Assisting people to achieve their desired individual quality-of-life outcomes is one of the primary goals of managed long-term care. The following personal experience outcome domains are the areas of life that people in long-term care programs have identified as being important to their quality of life. They provide a framework for learning about and understanding the individual’s needs, values, preferences, and priorities in the assessment and care planning process and in monitoring the quality of our long-term care programs. It is expected that each of these domains will be assessed during the member-centered planning process.

Choice – choosing:

- Where and with whom to live
- Supports and services

[50.034](#), Stats

WI State Statue 50.034 Residential care apartment complexes.

5n) Required referral. Subject to sub. (5p), when a residential care apartment complex first provides written material regarding the residential care apartment complex to a prospective resident who is at least 65 years of age or has developmental disability or a physical disability and whose disability or condition is expected to last at least 90 days, the residential care apartment complex shall refer the prospective resident to a resource center under s. [46.283](#), unless any of the following applies:

- [50.034\(5n\)\(c\)](#) The person is an enrollee of a care management organization.

Person-Centered Planning: Options of services, providers, and settings, including non-disability specific settings, are offered to participants in all Wisconsin HCBS programs. ([Statewide Transition Plan](#), pg. 85; Wisconsin HCBS waivers, waiver-specific contracts, and policy documents)

Met Unmet Not Applicable

Autumn Village residents who are supported with waiver funding are involved in the development and ongoing review of member centered plans. Several sections of the MCP focus on outcomes chosen by the member, including where they want to live, employment and education preferences if any, and if they chose to access and participate in the community. The facility's ISP process, also including the resident as an integral member of the team, includes sections on family contacts, likes and dislikes, social and leisure needs/preferences. Autumn Village tenants choose to live in the RCAC based on their long-term care needs, resources, and preferences.

The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and resources available for room and board. [42 CFR § 441.301(c)(4)(ii)].

Compliance within Wisconsin State Standards and Regulations

Wisconsin Admin. Code ch. DHS 89 is intended "to establish standards and procedures for the certification or registration of residential care apartment complexes in order to promote the health and safety of persons residing in and receiving services from those facilities. This chapter is intended to ensure that all residential care apartment complexes provide each tenant with an independent apartment in a setting that is home-like and residential in character; make available personal, supportive and nursing services that are appropriate to the needs, abilities and preferences of individual tenants; and operate in a manner that protects tenants' rights, respects tenant privacy, enhances tenant self-reliance and supports tenant autonomy in decision-making including the right to accept risk." ([Wis. Admin. Code § DHS 89.11](#))

The tenant has the right to choose services and the right to refuse services. The tenant has the right to receive visitors, meet with groups, or participate in activities of the tenant's choice, to receive and send sealed mail, and to have a private phone installed in his or her independent apartment. (Summarized from [Wis. Admin. Code § DHS 89.34](#))

Each tenant has the right to: manage his or her own financial affairs, unless the tenant delegates responsibility to another person or the tenant has a guardian; have choice of his or her physician and other medical providers; and a choice of providers of supportive, personal, and nursing services from providers other than the residential care apartment complex, subject to the requirements of [Wis. Admin. Code § DHS 89.24\(2\)\(b\)](#).

From [contract between SMA and specific MCOs](#):

V. Care Management:

C. Assessment and Member-Centered Planning Process:

Member-centered planning reflects understanding between the member and the IDT staff and will demonstrate changes that occur with the member's outcomes and health status. The member is always central to the member centered planning and comprehensive assessment process. The IDT staff will ensure that the member is at the center of the member centered planning process. The member will actively participate in the planning process, in particular, in the identification of personal outcomes and preferences.

Met Unmet Not Applicable

The Autumn Village ISP policy provides for the development of a temporary plan and an ongoing plan, at least annually, when there is a change in condition, or at the request of the resident or their family. Individuals supported with waiver funds develop a member-centered plan, which regularly reviews the member's choice of personal outcomes and long-term care preferences, including where they want to live, whom they wish to associate with, and activities they wish to participate in. The facility's ISP process, also including the resident as an integral member of the team, includes sections on family contacts, likes and dislikes, social and leisure needs/preferences. Review of several MCPs state "... would like to live at Autumn Village RCAC where she can have her space but staff available if needed..." and "... would like to remain living at Autumn Village RCAC for as long as possible." Autumn Village tenants choose to live in the RCAC based on their long-term care needs, resources, and preferences.

The setting facilitates choice regarding services and supports, and who provides them. Individuals have a choice in selecting their service providers, and are not reliant on services from the institution to the exclusion of other community-based options. Individuals can choose to receive services in the community to the same degree as individuals not receiving Medicaid HCBS. [42 CFR § 441.301(c)(4)(v)]

Compliance within Wisconsin State Standards and Regulations

From Contract Between SMA and Each MCO:

VIII. Provider Network,

A. Member Choice

1. Information to Members: The MCO shall inform members about the full range of provider choice available to them, including free choice of medical and other providers that remain fee-for-service for Family Care members, as applicable.

From [IRIS Policy Manual](#)

1.1C Philosophy

Self-direction means people have more choice, control, flexibility, freedom, and responsibility. Within the context of IRIS, self-direction means participants decide upon the following:

- The goods, supports, and services needed to help live the life he or she wants while meeting his or her long-term care outcomes.
- The amount and location that goods, supports, and services are provided, as well as decisions on the provider of these services.

Person-Centered Planning:

- Options of services, providers, and settings, including non-disability specific settings, are offered to participants in all Wisconsin HCBS programs. (Statewide Transition Plan, pg. 87; Summarized from Wis. HCBS waivers, waiver-specific contracts, and policy documents.)
- Residents have the right to "receive adequate and appropriate care within the capacity of the facility" and to "use the licensed, certified or registered provider of health care and pharmacist of the resident's choice." ([Wis. Stat. § 50.09](#))

Rights:

- The tenant has the right to choose services and the right to refuse services. (WI Statewide Transition Plan, pg. 84; Summarized from Wis. Admin. Code § DHS 89.34)

- Each tenant has the right to: have choice of his or her physician and other medical providers; and a choice of providers of supportive, personal, and nursing services from providers other than the residential care apartment complex, subject to the requirements of [Wis. Admin. Code § DHS 89.24\(2\)\(b\)](#). (WI Statewide Transition Plan, pg. 85; Summarized from Wis. Admin. Code § [DHS 89.34](#))

Met Unmet Not Applicable

Autumn Village tenants continue medical care with their providers of choice with whom they often have established relationships. Local providers and specialists either nearby or in the communities of Eau Claire continue providing services as they did prior to the individual living at Autumn Village. Contact information about preferred providers is included in ISP and MCP reviews and other tenant related files. Other providers such as salon services or using specific retailers are also the choice of the individual tenant.

The setting optimizes, but does 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. [42 CFR § 441.301(c)(4)(iv)]

Compliance within Wisconsin State Standards and Regulations

Wisconsin Admin. Code ch. DHS 89 is intended “to establish standards and procedures for the certification or registration of residential care apartment complexes in order to promote the health and safety of persons residing in and receiving services from those facilities. This chapter is intended to ensure that all residential care apartment complexes provide each tenant with an independent apartment in a setting that is home-like and residential in character; make available personal, supportive and nursing services that are appropriate to the needs, abilities and preferences of individual tenants; and operate in a manner that protects tenants' rights, respects tenant privacy, enhances tenant self-reliance and supports tenant autonomy in decision-making including the right to accept risk.” ([Wis. Admin. Code § DHS 89.11](#))

Each tenant will have a service agreement based on an assessment conducted with the active participation of the tenant. The service agreement includes the type, amount, and frequency of any services to be provided to the tenant, any additional services that are available, and the activities and social connections the tenant will be assisted in maintaining. (Summarized from [Wis. Admin. Code §§ DHS 89.26 and 89.27](#))

The tenant has the right to choose services and the right to refuse services. The tenant has the right to receive visitors, meet with groups or participate in activities of the tenant's choice, to receive and send sealed mail, and to have a private phone installed in his or her independent apartment. (Summarized from [Wis. Admin. Code § DHS 89.34](#))

Met Unmet Not Applicable

The Autumn Village person centered planning, philosophy, and practices states that “safeguarding the rights and wishes of the individual will be of utmost importance in the process of care delivery. The right to choose to participate in activities, meals and cares will be left to the discretion of the individual. . . . The ultimate philosophy of Autumn Village is to be a partner in the care of each individual tenant. Autonomy is essential to the health of the person.” Tenants set their own schedules, wear what they choose, and come and go as they wish.

Individuals have the freedom and support to control their own schedules and activities. [42 CFR § 441.301(c)(4)(vi)(C)]

Compliance within Wisconsin State Standards and Regulations

Wisconsin Admin. Code ch. DHS 89 is intended “to establish standards and procedures for the certification or registration of residential care apartment complexes in order to promote the health and safety of persons residing in and receiving services from those facilities. This chapter is intended to ensure that all residential care apartment complexes provide each tenant with an independent apartment in a setting that is home-like and residential in character; make available personal, supportive and nursing services that are appropriate to the needs, abilities and preferences of individual tenants; and operate in a manner that protects tenants' rights, respects tenant privacy, enhances tenant self-reliance and supports tenant autonomy in decision-making including the right to accept risk.” ([Wis. Admin. Code § DHS 89.11](#))

Met Unmet Not Applicable

Autumn Village tenants control their own schedules and activities as they wish, just as they did prior to moving to Autumn Village apartments. Ongoing development of member centered plans, ISPs always include a review with preferences with each individual, and the facility then assists in helping tenants engage in preferred activities. Autumn Village tenants are free to come and go as they wish and to associate and visit with whomever they choose.

The setting ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint, [42 CFR § 441.301(c)(4)(iii)].

Compliance within Wisconsin State Standards and Regulations

Autumn Village Assisted Living is a residential care apartment complex (RCAC). RCACs are independent apartments that offer additional services, if needed. The services provided to tenants are based on the tenant's selection from a menu of services and supports, both in the setting and in the community. A tenant may choose to do most activities independently or have more comprehensive assistance.

State-regulated settings are subject to unannounced licensing visits, both in response to complaints and during regular oversight visits. In addition, when HCBS participants are resident in the setting, waiver program care managers are required to have ongoing contact, including face-to-face visits, at which time any member rights issues would be identified and addressed.

Rights: A tenant has the right "to have privacy in his or her independent apartment and when receiving supportive, personal or nursing services." The tenant has the right "to be free from physical, sexual or emotional abuse, neglect or financial exploitation or misappropriation of property by the facility, its staff or any service provider under contract with the facility" and has the right to be free from coercion. (Statewide Transition Plan, pgs. 85-86; Summarized from Wis. Admin. Code §§ DHS [89.34](#) and [89.36](#))

DHS prohibits the use of restraint or seclusion of waiver participants unless the specific restraint or seclusion intervention has been reviewed and approved by DHS. Use of restraint and/or isolation is monitored by waiver agencies and DHS. Guidelines on restraints and isolation are found at: www.dhs.wisconsin.gov/waivermanual/appndx-r1.pdf and www.dhs.wisconsin.gov/dqa/memos/15-003.pdf (WI Statewide Transition Plan)

Met Unmet Not Applicable

Autumn Village tenants have privacy in their living unit and each apartment has its own bathroom with a shower. The brochure, tenant's rights, and other documents provide for privacy and dignity for residents in their living unit and when they receive cares and other services.

Individuals are able to have visitors of their choosing at any time. [42 CFR § 441.301(c)(4)(vi)(D)]

Compliance within Wisconsin State Standards and Regulations

"Each independent apartment shall be of adequate size and configuration to permit tenants to carry out, with or without assistance, all the functions necessary for independent living, including... entertaining visitors." (WI Statewide Transition Plan; [Wis. Admin. Code § DHS 89.22](#))

The tenant has the right to receive visitors, meet with groups, or participate in activities of the tenant's choice, to receive and send sealed mail, and to have a private phone installed in his or her independent apartment. (WI Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 89.34](#))

Met Unmet Not Applicable

Autumn Village tenants may receive visitors at any time. Tenants may come and go as they please and enjoy visitors of their choice.

Individuals have access to food at any time.

Compliance within Wisconsin State Standards and Regulations

A “Residential care apartment complex’ consists of independent apartments, each of which has an individual lockable entrance and exit, a kitchen, including a stove, and individual bathroom, sleeping and living areas” ([Wis. Admin. Code § DHS 89.13](#))

Each independent apartment shall have a kitchen that is “a visually and functionally distinct area within the apartment. The refrigerator shall have a freezer compartment. The sink shall have hot and cold running water.” (Wis. Admin. Code § DHS 89.22)

Met Unmet Not Applicable

Autumn Village residents are served three meals each day and snacks as requested. Each apartment has a full-sized refrigerator and microwave so tenants can prepare meals and snacks as they wish. Residents have access to food 24/7.

The living unit is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services. The individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under applicable landlord/tenant laws. The State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord/tenant laws. [42 CFR § 441.301(c)(4)(vi)(A)].

Compliance within Wisconsin State Standards and Regulations

A residential care apartment complex shall enter into a mutually agreed-upon written service agreement with each of its tenants. The agreement shall include the services and the charges for any services in the service agreement and any additional services that are available for purchase. The agreement must also include the grounds for any termination of the agreement. (WI Statewide Transition Plan, pg. 88; Summarized from Wis. Admin. Code § [DHS 89.27](#))

Met Unmet Not Applicable

The Autumn Village residence and service agreement provides for a 30-day notice for the tenant to terminate the agreement and a 30-day notice on the part of the facility to the tenant for termination of the agreement. There are provisions for emergencies or changing conditions that may result in a tenant needing other care or services, which Autumn Village CBRF cannot provide.

Overcoming Institutional Presumption

The setting demonstrated a meaningful physical distinction between the HCBS setting and the institutional setting, including separate entrances and signage, physical divisions, and differences in décor.

Met Unmet Not Applicable

Autumn Village is physically distinct from the American Lutheran Home – Menomonie Unit and has a separate entrance and separate signage. Autumn Village is separated from the SNF by a hallway that is sometimes used for shared services, such as food services. Tenants may bring in their own furniture and decorations to make their apartment distinctively their own. The hallways and common areas of the Autumn Village CBRF are different in décor from the SNF, which is institutional in nature.

Each individual has privacy in their sleeping or living unit.

Compliance within Wisconsin State Standards and Regulations

A “residential care apartment ‘complex’ or ‘facility’... consists of independent apartments, each of which has an individual lockable entrance and exit, a kitchen, including a stove, and individual bathroom, sleeping and living areas...” ([Wis. Admin. Code § DHS 89.13](#))

A tenant has the right “to have privacy in his or her independent apartment and when receiving supportive, personal or nursing services.” The tenant has the right “to be free from physical, sexual or emotional abuse, neglect or financial exploitation or misappropriation of property by the facility, its staff or any service provider under contract with the facility” and has the right to be free from coercion. (Summarized from Wis. Admin. Code §§ DHS 89.34 and 89.36)

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance (DQA) surveyors that the setting (DQA, [F-02138](#), HCBS Compliance Review):

- Provides lockable key entry doors on all resident rooms, and individual keys to all residents.
- Has a policy ensuring that staff uses facility keys to enter a resident’s room only under circumstances agreed upon with the resident.

Met Unmet Not Applicable

Autumn Village apartments provide tenants with a private living unit and a private bath. There is a door lock on every unit and tenants are assured that staff may enter only with permission or in the event of other agreed upon situations of an emergency nature.

Individual living units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.

Compliance within Wisconsin State Standards and Regulations

Each independent apartment shall have “an individual lockable entrance and exit. A single door may serve as both entrance and exit. Keys to the door to the independent apartment and to the residential care apartment complex shall be supplied to the tenant.” ([Wis. Admin. Code § DHS 89.22](#))

“Individual lockable entrance and exit” means a door that provides access to an independent apartment and is equipped with an individually keyed lock which is operable from both inside and outside the unit and which the tenant can open, close and lock to ensure privacy.” ([Wis. Admin. Code § DHS 89.13](#))

Locks on living unit doors allow the resident to exercise his or her right to privacy and personal choice. Staff in each residential setting should always knock and receive permission prior to entering a resident’s living space. DHS expects the residential setting to have a policy in place to ensure that staff always knock and receive permission prior to entering a resident’s room or personal living space to respect residents’ rights to privacy. Please refer to DHS’ [Frequently Asked Questions \(FAQs\) about Door Locks in Adult Long-Term Care Residential Settings](#) for additional lock-related information.

Met Unmet Not Applicable

Autumn Village living units are individual apartments with a lock on each entry door. Tenants are assured that staff may enter only with permission or in the event of other agreed upon situations of an emergency nature.

Individuals sharing units have a choice of roommates in that setting.

Compliance within Wisconsin State Standards and Regulations

“Multiple occupancy of an independent apartment shall be limited to a spouse or a roommate chosen at the initiative of the tenant.” ([Wis. Admin. Code § DHS 89.22](#))

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance surveyors that residents have choice of roommates (DQA, [F-02138](#), HCBS Compliance Review).

Person-Centered Planning: Family Care Provider Network, I. Access to Providers: “For residential care facilities, evidence of adequate capacity shall include identification of the availability of residential providers offering private rooms, and a process for moving an individual to a private room when one becomes available that is consistent with the member’s preferences.” ([DHS-MCO Contract, Article VIII, I\(6\)d](#))

Met Unmet Not Applicable

Autumn Village residents may choose to share an apartment with a roommate of their choice. No one is required to share an apartment.

Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement. [42 CFR § 441.301(c)(4)(vi)(B)(1-3)]

Compliance within Wisconsin State Standards and Regulations

A tenant has the right “to furnish his or her independent apartment and to maintain personal possessions as space permits as long as the tenant does not unreasonably interfere with the other tenants’ choices or endanger the health or safety of the other tenants.” (WI Statewide Transition Plan; [Wis. Admin. Code § DHS 89.34](#))

Met Unmet Not Applicable

Autumn Village tenants are required to bring their own furnishings. The moving in checklist suggests bedroom and living area furniture, kitchen items, décor items, and personal belongs like books, photos, and mementos. Appliances such as a toaster and coffee maker are also suggested.

The setting is physically accessible to the individual. [42 CFR § 441.301(c)(4)(vi)(E)]

Compliance within Wisconsin State Standards and Regulations

“Each independent apartment shall be of adequate size and configuration to permit tenants to carry out, with or without assistance, all the functions necessary for independent living, including sleeping; sitting; dressing; personal hygiene; storing, preparing, serving and eating food; storing clothing and other personal possessions; doing personal correspondence and paperwork; and entertaining visitors.” ([Wis. Admin. Code § DHS 89.22](#))

Met Unmet Not Applicable

Built in 1997, Autumn Village is physically accessible and meets ADA requirements. Any tenant with mobility restrictions has access throughout the facility.

Operational Distinction

The setting demonstrated meaningful operational distinction between the institution and the community–based setting, such as minimal administrative and financial interconnectedness.

Met Unmet Not Applicable

Autumn Village is part of American Lutheran Community Services, Inc., while the SNF is part of the American Lutheran Homes, Inc. Each facility has a separate budget and two separate tax IDs. Autumn Village has its own administrator. While there is some overlap of administrative support for both facilities, an allocation of expenditures for positions and services is applied to each facility.

There is a distinction between staff for the HCBS setting and the institutional setting. Staff working in the HCBS setting receive initial and ongoing training on HCBS settings rule requirements and principles, and person-centered planning.

Met Unmet Not Applicable

The direct care staff at Autumn Village are personal care workers who are trained in carrying out the services and activities of the CBRF. If there were a need for staff to work on both the CBRF and the SNF, they would be cross-trained for each distinct position a staff person would work.

DHS Recommendation

DHS finds that [Autumn Village Assisted Living](#) possesses the required home and community–based characteristics, is not isolating in nature, and overcomes the presumption of having institutional qualities.

Please note that these findings are preliminary only and must receive final approval from CMS.

In accordance with federal requirements, all compliance results will be made public by DHS. The decision will appear on the subsequent upload of facility information to DHS websites, including the [DQA Provider Search webpage](#) and the provider directories available at the [Consumer Guide to Health Care – Finding and Choosing an Assisted Living Facility webpage](#).

Ongoing Compliance

Wisconsin's Division of Quality Assurance (DQA) will ensure through ongoing compliance reviews that [Autumn Village Assisted Living](#) continues to meet the requirements of the HCBS Settings Rule. The DMS Bureau of Assisted Living (BAL) has incorporated the HCBS settings rule into its current assisted living survey process and activities. ([DQA Implementation of Home and Community-Based Services Settings Rule in Residential Assisted Living Facilities](#))

Waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are certified by the Wisconsin Department of Health Services (DHS) and work within the requirements of contracts with DHS. State licensed settings are subject to unannounced licensing visits, both in response to complaints and during regular oversight visits, by the state licensing authority, or by the entity that certified the provider if not regulated by the state. As part of these periodic licensing or certification reviews, the credentialing entity will also review the setting for continued HCBS compliance. Providers will be required to address any HCBS rule deficiencies.

When HCBS participants are resident in the setting, waiver program care managers are required to have ongoing contact, including face-to-face visits, at which time any areas of concern would be identified and addressed. Each participant in a Medicaid home and community-based waiver program is further protected through the state's long-term care ombudsman program, which has regular access to the assisted living setting. [Wisconsin's Board on Aging & Long Term Care](#): The Board on Aging and Long Term Care advocates for the interests of Wisconsin's long-term care consumers, informs those consumers of their rights and educates the public about health care systems and long-term care. The Board also operates the [Long Term Care Ombudsman](#), and [Volunteer Ombudsman](#) services.

EVIDENTIARY ASSESSMENT AND SUMMARY
Home and Community-Based Services (HCBS) Settings Rule
Heightened Scrutiny Review – Community-Based Residential Facility (CBRF)

Facility Name <i>Birch Way</i>		Facility Type <i>Community-Based Residential Facility (CBRF)</i>	
Corporate Name (if applicable) <i>Good Shepard Services, LTD</i>		License/Certification # <i>0013858</i>	County <i>Outagamie</i>
Facility Address <i>607 East Bronson Road</i>	City <i>Seymour</i>	State <i>WI</i>	Zip Code <i>54165</i>
Primary Contact Name: <i>Deb Captain</i>	Primary Contact Direct Phone (incl. area code) <i>920-833-6856</i>	Primary Contact Email Address:: <i>dcaptain@gssltd.org</i>	
Facility Website Address http://www.goodshepherdservices.org/cbrfs.html			

Reason for Institutional Presumption

- Settings in a publicly or privately operated facility that provides inpatient institutional treatment. Name of institution: *Good Shepard Nursing Home*
- Settings in a building on the grounds of, or adjacent to, a public institution. Name of institution:
- Settings with the effect of isolating individuals from the broader community of individuals not receiving HCBS waiver services.

The Centers for Medicare and Medicaid Services' (CMS) HCBS settings rule assumes that certain settings are not home and community-based. If a Wisconsin assisted living facility (setting) meets one of the criteria for institutional presumption as defined above, the DHS Division of Medicaid Services (DMS) conducts a heightened scrutiny review.

DMS believes that *Birch Way* has overcome the institutional presumption and meets the criteria of a home and community-based services setting as summarized below.

To reinforce the extent to which Wisconsin's licensing and certification regulations and standards align with and reinforce the HCBS settings rule, the applicable state standard or regulation is included, where applicable, with the compliance review summary below.

Facility Summary

Birch Way CBRF opened in 2012 as part of the greater Good Shepard Home in Seymour, Wisconsin. The main campus is home to the Meadow Wood Apartments (RCAC), Good Shepard Care, and Good Shepard Rehabilitation clinic. The community of Seymour counts about 3,000 residents, and the main campus at Good Shepard hosts a variety of events for seniors in the community. There are 13 apartments at Birch Way and, at this writing, seven residents are supported through Family Care. Good Shepherd does not cap access to Family Care funding, so any resident is entitled to live at Birch Way regardless of means.

The setting is integrated in and supports full access to the greater community [42 CFR § 441.301(c) (4) (i)].

The community considers the setting a part of their community and does not associate the setting with institutional services.

Met Unmet Not Applicable

- Information in the submitted cover letter states that the Good Shepherd campus is the “hot spot” in the community for older adults. Activity calendars from Birch Way note internal activities, which are open to community members to attend. Community bingo, cookouts, picnics and ice cream socials are favorites.
- Community residents frequently attend the Seymour Senior Center, which is located on the Birch Way campus.
- Al’s Service Station in the town of Seymour serves popcorn and soft serve ice cream each day, which is available to the residents at Good Shepherd and the residents in Seymour.
- A community volunteer council plans activities for the residents at Birch Way and the greater Good Shepherd campus. One of the highlights is when the local day care kids visit with the Birch Way residents.
- Family members, friends, and people from the community provided letters of support to confirm that Birch Way is considered a home away from home. “Barbara”...from Wake Forest, NC spends the holidays with her 94-year old Mom at Birch Way. She writes, “I get to spend each holiday with my siblings and my Mom and she is still alive because of the wonderful care she receives at Birch Way. Mom enjoys all the activities, she can walk to the dining room, see friends and maintain a high degree of independence.” Julie writes “My mother lives at Birch Way and is excited that her sister is just two doors down, the chapel is close by and that they can eat meals together.”

Individuals, to the extent they desire, have opportunities to participate in typical community life activities outside of the setting.

Compliance within Wisconsin State Standards and Regulations:

Person-Centered Planning: The plan must be based on an assessment that addresses the person’s “capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known” and “social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs.” (Summarized from [Wis. Admin. Code § DHS 83.35](#))

Program Services: Community activities. The CBRF shall provide information and assistance to facilitate participation in personal and community activities. The CBRF shall develop, update and make available to all residents, monthly schedules and notices of community activities, including costs. ([Wis. Admin. Code § DHS 83.38\(1\)\(d\)](#))

Family and social contacts: The CBRF shall encourage and assist residents in maintaining family and social contacts. (Wis. Admin. Code § DHS 83.38(1)(e))

Met Unmet Not Applicable

Resident Rights Policy, Dignity and Respect section – confirms that each Birch Way resident has:

- The right to reside and receive services at the CBRF with reasonable accommodation of the resident’s individual needs and preferences.
- Choose activities, schedules and health care consistent with the interests of the resident.
- “Interact with members of the community both in and out of the facility.”
- Participation in an individual service plan that sets forth goals for the resident and goals for Birch Way. The ISP encourages opportunities for the resident to maintain family and social contacts.
- “Each resident has the right to receive visitors 24 hours a day and the right to immediate access to family and relatives.”

Activities are individualized or include more than just setting-based group activities

- Based on the review of person-centered plans, each of the plans demonstrated a high degree of individualized support for activities and involvement in activities and events. A recreational assessment is conducted for each of the resident upon intake and is routinely evaluated and updated on a regular basis.
- Another person-centered plan indicated that the resident volunteered at the local humane society twice a month.
- All residents have access to the beauty shop on campus or are free to obtain services in the community. Additionally, Birch Way sponsors a weekly trip to Shopko, Walmart, and local banks.
- Birch Way also encourages residents to continue their relationships in the community. Family, friends and visitors are encouraged to visit their loved ones at Birch Way.

The setting supports access to community activities through its own transportation or coordination of transportation options.

Met Unmet Not Applicable

- There is an extensive community activity program, which is supported through transportation provided by Birch Way and Good Shepherd. Two campus vans will take residents to activities.
- A community volunteer driving program is designed to take residents to individual, medical, and wellness visits.

Individuals, if they choose, have opportunities to seek employment and work in competitive integrated settings.

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning:

The plan must be based on an assessment that addresses the person’s “capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known” and “social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs.” ([WI Statewide Transition Plan](#); Summarized from [Wis. Admin. Code § DHS 83.35](#))

From contract between DHS and specific MCOs:

V. Care Management:

C. Assessment and Member-Centered Planning Process

C.1. Comprehensive Assessment

C.1.(c) Documentation: The comprehensive assessment will include documentation by the IDT staff of:

C.1.(c)(viii) An exploration with the member of the member's preferences and opportunities for community integration including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community.

C.3. Member-Centered Planning

C.3.(c)(iv)(g) The setting in which the member resides supports integration into 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.

VII. Services

A. General Provisions

1. Comprehensive Service Delivery System

c. Serve to maintain community connections, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, and that are cost effective.

Addendum I

It is the DHS's "expectation under this contract that benefits will be fully integrated and will afford options that foster opportunities for interaction and integration into 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 while supporting each member's individual outcomes and recognizing each member's preferences."

Met Unmet Not Applicable

- Residents at Birch Way enjoy numerous options for interaction and access to the greater Seymour community. During the initial intake assessment, new residents are given a *Community Resource Manual* that outlines volunteer opportunities and access to community opportunities.
- Two of the residents at Birch Way continue to volunteer at their local church.
- The *Resident Rights* policy states, "As a resident, you have the right to participate in religious, social and community activities."

Individuals are able to control their personal resources.

Compliance within Wisconsin State Standards and Regulations

Every resident in a community-based residential facility has the right to "manage the resident's own financial affairs, unless the resident delegates, in writing, such responsibility to the facility and the facility accepts the responsibility or unless the resident delegates to someone else of the resident's choosing and that person accepts the responsibility." (Statewide Transition Plan; [Wis. Stat. § 50.09](#))

Met Unmet Not Applicable

The *Resident Rights Policy*, under *Financial Affairs* supports that residents are able to control their personal resources – "As a resident, you have the right to manage your own financial affairs and are not required to deposit your personal funds with the facility."

Choice, Independence, and Person-Centered Planning

The setting is selected by the individual from among setting options including non-disability specific settings. [42 CFR § 441.301(c)(4)(ii)]

Compliance within Wisconsin State Standards and Regulations

Wisconsin has protections in place for Medicaid waiver participants which ensure they understand their choices. DHS waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are responsible for discussing choice of service settings with the waiver participant and family/guardian to locate the most suitable provider setting, including a discussion of living in a non-disability specific setting. In practice, the waiver agencies are complying with this requirement, and documenting and monitoring the choice of settings in the member-centered plan or IRIS support and service plan, as applicable.

In Wisconsin, the choice of setting requirement is not the initial responsibility of the provider setting. Rather the choice of setting takes place through the person-centered planning process at the waiver agency level. Waiver agencies are certified by DHS and work within the requirements of contracts with DHS. Through ongoing monitoring, Wisconsin will ensure that individuals maintain the right to choose where they reside.

Additionally, Wisconsin has protections in place through *Pre-Admission Consultation (PAC)*: <https://www.dhs.wisconsin.gov/adrc/pros/pac.htm>

“Pre-admission consultation is a service provided by Aging and Disability Resource Centers (ADRCs) to individuals who are in the process of considering or making a decision about the need to move out of his or her home in order to receive the help they need to remain independent and safe. Sometimes people are unaware that there are services and supports that can be provided right in their own home, often making a move unnecessary. Those who want to move into a nursing home or assisted living facility (such as a community based residential facility or residential care apartment complex), can find it difficult to know which facility would be the best for them or a loved one.”

Met Unmet Not Applicable

- A review of person-centered plans confirms that Birch Way was selected from a variety of setting options, including non-disability specific settings. Signature pages for five person-centered plans that indicated that the resident chose the facility over other choices.
- Annual review documentation confirms that Birch Way continues to be the setting of choice for the individual. Birch Way submitted three waiver agency member-centered plans that confirmed that prior to placement, the resident chose Birch Way.

The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and resources available for room and board. [42 CFR § 441.301(c)(4)(ii)]

Compliance within Wisconsin State Standards and Regulations

“COMPREHENSIVE INDIVIDUAL SERVICE PLAN Individual service plan review. Annually or when there is a change in a resident's needs, abilities or physical or mental condition, the individual service plan shall be reviewed and revised based on the assessment under sub. (1). All reviews of the individual service plan shall include input from the resident or legal representative, case manager, resident care staff, and other service providers as appropriate.” ([Wis. Admin. Code § DHS 83.35 \(1\)\(d\)](#))

Met Unmet Not Applicable

- The *Resident Handbook* makes clear that Birch Way offers each individual the freedom to live as active lifestyle that they desire. Compliance within the Provider submitted documentation confirms that within the Birch Way/Good Shepherd senior community, each individual can enjoy in house services, meal and complimentary services, dining options and a robust activity program planned for in house and external opportunities.

- Person-centered planning supports that the setting is the individual’s home and should be thought of and supported with a focus on individuality, privacy, needs, likes and preferences. The Resident Rights Handbook affirms that each resident has “The right to participate in the planning of their own care.” have the right to choose their own healthcare providers; Have the right to eat, sleep and dine when they so choose.
- There are a number of dining options for the residents at Birch Way – the main dining room on campus, coffee shop, snack bar, etc.

The setting facilitates choice regarding services and supports, and who provides them. Individuals have a choice in selecting their service providers, and are not reliant on services from the institution to the exclusion of other community-based options. Individuals can choose to receive services in the community to the same degree as individuals not receiving Medicaid HCBS. [42 CFR § 441.301(c)(4)(v)].

Compliance within Wisconsin State Standards and Regulations:

Before or at the time of admission, the CBRF shall provide written information regarding services available and the charges for those services to each resident or the resident’s legal representative. This information shall include any charges for services not covered by the daily or monthly rate...” (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.29](#))

Person-Centered Planning:

1. “Options of services, providers, and settings, including non-disability specific settings, are offered to participants in all Wisconsin HCBS programs.” (WI Statewide Transition Plan; Summarized from Wis. HCBS waivers, waiver-specific contracts, and policy documents.)
2. Residents have the right to “use the licensed, certified or registered provider of health care and pharmacist of the resident’s choice.” ([Wis. Stat. § 50.09](#))

Met Unmet Not Applicable

- As part of the *Resident Rights Policy*, each resident has the right to medical treatment that is appropriate to meet each individual need. Staff will work with family, friends, etc. to arrange for appointments with their individual healthcare providers and each resident has the right to participate in the planning of their own care.
- A review of person-centered plans indicated that residents are able to participate in medical decisions, make recommendations for their care, etc.

The setting optimizes, but does 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 [42 CFR § 441.301(c)(4)(iv)]

Compliance within Wisconsin State Standards and Regulations

Rights: Licensees must protect the civil rights of residents. Residents have the right to make decision relating to care, activities, daily routines, and other aspects of life that enhance the resident’s self-reliance and support the resident’s autonomy and decision-making. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.32](#))

Person-Centered Planning: The plan must be based on an assessment that addresses the person’s capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known, and social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts, and vocational needs. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.35](#))

“The CBRF shall teach residents the necessary skills to achieve and maintain the resident’s highest level of functioning.” The CBRF shall provide or arrange services adequate to meet the needs of the residents including providing leisure time activities, facilitating participation in community activities, and encouraging and assisting residents in maintaining family and social contacts. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.38](#))

Rights: Residents have the right to make decisions relating to care, activities, daily routines, and other aspects of life that enhance the resident's self-reliance and support the resident's autonomy and decision making, and have the least restrictive conditions necessary to achieve the purposes of the resident's admission. The CBRF may not impose a curfew, rule, or other restriction on a resident's freedom of choice. (Statewide Transition Plan; Summarized from Wis. Admin. Code § DHS 83.32)

Met Unmet Not Applicable

- Review of the *Resident Handbook*, *Resident Rights*, and *Senior Living Policy* support the right of each resident to enjoy individual choice, autonomy and independence in making choices about their activities, décor, and living arrangements. Birch Way's philosophy and approach is to focus on the lifestyles and values of seniors and respect for individuality, independence, dignity, choice, privacy and a strong sense of well-being.
- A review of six person-centered plans evidenced individual choice in activities, hobbies, religious observance, etc. In addition to person-centered plans, each resident has a wellness plan, and an activity/recreational plan that documents interests, activities, and community involvement.

Individuals have the freedom and support to control their own schedules and activities [42 CFR § 441.301(c)(4)(vi)(C)]

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning: The plan must be based on an assessment that addresses the person's "capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known" and "social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs." (Statewide Transition Plan, pg. 72; Summarized from Wis. Admin. Code § DHS 83.35)

Rights: Licensees must protect the civil rights of residents. Residents have the right to make decision relating to care, activities, daily routines, and other aspects of life that enhance the resident's self-reliance and support the resident's autonomy and decision-making. (Summarized from Wis. Admin. Code § DHS 83.32)

Met Unmet Not Applicable

- A review of the *Resident Rights Handbook* confirms that each resident has the right to choose:
 - activities, schedules, and health care consistent with their own interests, assessments and care plans;
 - interact with members of the community both within and outside of Birch Way;
 - Make individual choices about aspects of their individual lives.
- A review of person-centered plans confirmed that residents are deeply involved in their own planning of activities and events. One man attended the entire 2019 Green Bay Packers home games.

The setting ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint [42 CFR § 441.301(c)(4)(iii)]

Compliance within State Standards:

Rights: Residents have the right to be "treated with courtesy, respect and dignity by all employees of the facility and other providers of health care and pharmacists with whom the resident comes in contact." ([Statewide Transition Plan](#), pg. 72; Summarized from [Wis. Stat. § 50.09](#))

Residents must be provided with "physical and emotional privacy in treatment, living arrangements, and in caring for personal needs" including, privacy for visits by spouse or domestic partner, or to share a room with a spouse or domestic partner if both are residents for the same facility; privacy concerning health care; confidentiality of health and personal records; and the right to approve or refuse their release to any individual outside the facility. (Statewide Transition Plan, pg. 72; Summarized from Wis. Stat. § 50.09)

“Any form of coercion to discourage or prevent a resident or the resident’s legal representative from exercising any of the rights under this subchapter is prohibited. Any form of retaliation against a resident or the resident’s legal representative for exercising any of the rights in this subchapter, or against an employee or any other person who assists a resident or the resident’s legal representative in the exercise of any of the resident rights in this subchapter, is prohibited.” (Statewide Transition Plan, pg. 72; Wis. [Admin. Code § DHS 83.32](#))

In addition, each resident shall have all of the following rights: freedom from mistreatment; freedom from seclusion; freedom from chemical restraint; and freedom from physical restraints, except upon prior review and approval by DHS upon written authorization from the resident’s primary physician or advanced practice nurse prescriber. DHS may place conditions on the use of a restraint to protect the health, safety, welfare, and rights of the resident. (Statewide Transition Plan; Summarized from Wis. Admin. Code § DHS 83.32)

Met Unmet Not Applicable

- According to the *Resident Rights policy*, each resident has the right to a “safe environment that safeguards residents from environmental hazards, including conditions that are hazardous to anyone and conditions that are hazardous to the resident because of the residents’ conditions or disabilities.”
- The *Resident Rights policy* addresses and ensures each of the requirements of 42 CFR § 441.301(c) (4) (iii). These requirements are confirmed through staff training, and complies with all applicable federal, state and local laws regarding abuse/neglect. As part of this policy, each resident is encouraged to sign the Resident Rights protocol that outlines the facility’s compliance with applicable statutes.
- New employee and staff orientation checklists include the *Birch Way Code of Ethics*, with sections on privacy, confidentiality, resident rights, abuse/neglect prevention, and mandated reporting requirements.

Individuals are able to have visitors of their choosing at any time [42 CFR § 441.301(c)(4)(vi)(D)]

Compliance within Wisconsin State Standards and Regulations

Rights: Residents have the right to private and unrestricted communications with their family, physician or other medical provider, attorney, and any other person, unless documented as medically contraindicated. The right to private and unrestricted communications includes the right to... reasonable access to a telephone for private communications; and the opportunity for private visits. (WI Statewide Transition Plan; Summarized from Wis. Stat. § 50.09)

Met Unmet Not Applicable

Birch Way House Rules Policy and Resident Agreement, under *Access and Visitation* states that “each resident has the right to receive visitors and meet with visitors 24 hours a day.”

Individuals have access to food at any time

Compliance within Wisconsin State Standards and Regulations

The CBRF must provide each resident with palatable food that meets the recommended dietary allowance based on current guidelines, including at least three meals a day and a snack in the evening, or more often based on the resident’s dietary needs. If a resident is away during meal time, the CBRF shall offer food to the resident on the resident’s return. The CBRF shall make reasonable adjustments to the menu for individual resident likes, habits, customs, condition, and appetites. (Summarized from Wis. Admin. Code § DHS 83.41)

Met Unmet Not Applicable

- Dining and auxiliary food choices are available at Birch Way, including a dining room with guest meals, a café with 24-hour service, and a snack bar with juices, bakery items, water, etc. Residents can also have meals set aside for them to access at different times from the scheduled dining room hours.
- Residents can have guests at any meal and can host dinners and parties for their friends and families.
- Dining options throughout the Good Shepherd campus are available to all residents.

Individuals occupy the setting under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity [42 CFR § 441.301(c)(4)(vi)(A)]

Compliance within Wisconsin State Standards and Regulations

“Each resident shall have a written agreement that is signed by and provided to each party. The agreement includes a description of the space to be provided to the resident, the agreed upon rate, a statement of the resident’s rights and the terms of termination, including timeframes. The agreement is updated annually.” ([WI Statewide Transition Plan](#), pg. 77; [Wis. Admin. Code § DHS 83.29](#))

The agreement must include terms for resident notification to the CBRF of voluntary discharge, and reasons and notice requirements for involuntary discharge or transfer, including transfers within the CBRF. (WI Statewide Transition Plan, pg. 77; Summarized from Wis. Admin. Code § DHS 83.31)
State licensed settings are subject to unannounced licensing visits, both in response to complaints and during regular oversight visits. Through ongoing HCBS monitoring, Wisconsin will ensure that individuals maintain the right to make such choices while residing in this state-licensed community-based residential facility. Additionally, the state’s long-term care ombudsman program has regular access to the setting.

Met Unmet Not Applicable

- The Birch Way *Admission Agreement* was reviewed, which confirmed that residents sign and maintain a copy of their agreements and person-centered documents.
- The *Admission Agreement* is very detailed and includes admission standards, rates, services, termination, etc.
- Sample admission agreements were reviewed and are in accordance with the HCBS settings rule.
- The *Occupancy Agreement* confirms that individuals residing at Birch Way occupy their residence under a legally enforceable occupancy agreement, and that the individual enjoys the same responsibilities and protections from eviction by statute of their community.

Overcoming Institutional Presumption

The setting demonstrated a meaningful physical distinction between the HCBS setting and the institutional setting, including separate entrances and signage, physical divisions, and differences in décor.

Met Unmet Not Applicable

- Each resident lives in either a studio or a one-bedroom apartment, are free to decorate, as they desire. Photos of resident rooms were provided – apartments appeared to be very homey, warm and inviting.
- Photographs of the common – lounge areas, snack bar and dining room – areas confirmed a meaningful difference in the décor between the SNF and the CBRF.
- Photos were submitted that illustrate separate signage for Birch Way. A welcome sign indicates that Birch Way is next to the chapel, and separate from the skilled nursing facility.
- There is a common area for all of the settings and all of the settings are separated by individual corridors.

Each individual has privacy in their sleeping or living unit.

Compliance within Wisconsin State Standards and Regulations

Residents must be provided with “physical and emotional privacy in treatment, living arrangements, and in caring for personal needs” including, privacy for visits by spouse or domestic partner, or to share a room with a spouse or domestic partner if both are residents for the same facility; privacy concerning health

care; confidentiality of health and personal records; and the right to approve or refuse their release to any individual outside the facility. (Statewide Transition Plan; Summarized from Wis. Stat. § 50.09)

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance surveyors that the setting (DQA, [F-02138](#), HCBS Compliance Review):

1. Provides lockable key entry doors on all resident rooms, and individual keys to all residents.
2. Has a policy ensuring that staff uses facility keys to enter a resident's room only under circumstances agreed upon with the resident.

Met Unmet Not Applicable

The *Residents Handbook* confirms:

- Residents are entitled to privacy.
- Individual keys are available for each resident. Lock policy includes a privacy statement confirming that staff have to knock before entering and only have access to a key when needed.

Individual living units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.

Compliance within Wisconsin State Standards and Regulations

Locks on living unit doors allow the resident to exercise his or her right to privacy and personal choice. Staff in each residential setting should always knock and receive permission prior to entering a resident's living space. DHS expects the residential setting to have a policy in place to ensure that staff always knock and receive permission prior to entering a resident's room or personal living space to respect residents' rights to privacy. Please refer to DHS' [Frequently Asked Questions \(FAQs\) about Door Locks in Adult Long-Term Care Residential Settings](#) for additional lock-related information.

Met Unmet Not Applicable

Review of the HCBS training document indicate that staff are trained in HCBS settings rule regarding resident's rights to privacy, etc., and there is a written policy on locks and staff accessibility.

Individuals sharing units have a choice of roommates in that setting.

Compliance within Wisconsin State Standards and Regulations

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance surveyors that residents have choice of roommates (DQA, [F-02138](#), HCBS Compliance Review):

Person-Centered Planning: Family Care Provider Network, I. Access to Providers: "For residential care facilities, evidence of adequate capacity shall include identification of the availability of residential providers offering private rooms, and a process for moving an individual to a private room when one becomes available that is consistent with the member's preferences." ([DHS-MCO Contract, Article VIII, I\(6\)d](#))

Met Unmet Not Applicable

Currently all tenants have private rooms at Birch Way CBRF Residence. A couple or others may share a unit with the roommate of their choice. There is no distinction of shared units for tenants supported with waiver funding.

Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement. [42 CFR § 441.301(c)(4)(vi)(B)(1-3)]

Compliance within Wisconsin State Standards and Regulations

Every resident in a community-based residential facility shall have the right to retain and use personal clothing and effects and to retain, as space permits, other personal possessions in a reasonably secure manner. (Summarized from Wis. Stat. § 50.09)

Met Unmet Not Applicable.

Resident Rights policy, under Retention, Use and Possession confirms, “As a resident of this facility, you have the right and are encouraged to retain and use your personal possessions, including furnishings and belongings.”

The setting is physically accessible to the individual [42 CFR § 441.301(c)(4)(vi)(E)]

Compliance within Wisconsin State Standards and Regulations

The bedroom and congregate dining and living area for any resident requiring a specified level of care and who is blind or not fully ambulatory shall be on the first floor. (Summarized from Wis. Admin. Code § DHS 83.50)

Bedrooms shall be designed and equipped to allow residents to achieve the highest level of independent functioning and shall be fully accessible to the resident. Within the bedroom, each resident shall have, or be provided with a closet or wardrobe with clothes hanging rods and shelves, and drawer space adequate to reasonably meet the needs of the resident. The bedroom shall have adequate accessible space for a resident’s wheelchair or other adaptive or prosthetic equipment. (Summarized from Wis. Admin. Code § DHS 83.54)

Met Unmet Not Applicable

The setting is physically accessible to residents.

The living unit is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services.

- The individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the applicable landlord/tenant laws.
- The State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction’s landlord tenant law [42 CFR § 441.301(c)(4)(vi)(A)].

Compliance within Wisconsin State Standards and Regulations:

“Each resident shall have a written agreement that is signed by and provided to each party. The agreement includes a description of the space to be provided to the resident, the agreed upon rate, a statement of the resident’s rights and the terms of termination, including timeframes. The agreement is updated annually.” ([Wis. Admin. Code § DHS 83.29](#))

The agreement must include terms for resident notification to the CBRF of voluntary discharge, and reasons and notice requirements for involuntary discharge or transfer, including transfers within the CBRF. (Summarized from [Wis. Admin. Code § DHS 83.31](#))

Met Unmet Not Applicable

- Documents submitted for review include, *Individual Occupancy Agreement, Resident Handbook/Admission Agreement*, which clearly outlines that Birch Way is responsible to be familiar with and comply with all requirements of applicable property owner tenant statutes for their community. As part of the *Admission Agreement*, it is stated that the setting will provide “proper written notice to the resident whenever there is a decision regarding the resident’s occupancy agreement, i.e., termination, etc.
 - *Service Agreement* describes rate, care levels, termination notice and procedures, tenant policies and procedures.
-

Operational Distinction

The setting demonstrated meaningful operational distinction between the institution and the community-based setting, such as minimal administrative and financial interconnectedness.

Met Unmet Not Applicable

Financial documents, including a budget, were submitted that confirmed that there is a separate budget for Birch Way CBRF from the SNF and other settings on the Good Shepherd campus. An organizational chart was submitted that confirmed that there is a separate Administrative Director for the CBRF with no responsibilities for the other settings.

There is a distinction between staff for the HCBS setting and the institutional setting. Staff working in the HCBS setting receive initial and ongoing training on HCBS settings rule requirements and principles, and person-centered planning.

Met Unmet Not Applicable

The 2019 in-service training schedule was submitted that included HCBS settings training during new staff orientation and then refresher training annually. A staff schedule for the CBRF confirmed that staff work specifically in the CBRF and do not work in any other setting. Staff are trained in person centered planning and HCBS rules settings.

DHS Recommendation

The State of Wisconsin can attest that Birch Way is a home and community-based setting, is non-isolating, and has overcome the initial institutional presumption.

Please note that these findings are preliminary only and must receive final approval from CMS.

In accordance with federal requirements, all compliance results will be made public by DHS. The decision will appear on the subsequent upload of facility information to DHS websites, including the [DQA Provider Search webpage](#) and the provider directories available at the [Consumer Guide to Health Care – Finding and Choosing an Assisted Living Facility webpage](#).

Ongoing Compliance

Wisconsin's Division of Quality Assurance (DQA) will ensure through ongoing compliance reviews that Birch Way continues to meet the requirements of the HCBS Settings Rule. The DMS Bureau of Assisted Living (BAL) has incorporated the HCBS settings rule into its current assisted living survey process and activities. ([DQA Implementation of Home and Community-Based Services Settings Rule in Residential Assisted Living Facilities](#))

Waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are certified by the Wisconsin Department of Health Services (DHS) and work within the requirements of contracts with DHS. State licensed settings are subject to unannounced licensing visits, both in response to complaints and during regular oversight visits, by the state licensing authority, or by the entity that certified the provider if not regulated by the state. As part of these periodic licensing or certification reviews, the credentialing entity will also review the setting for continued HCBS compliance. Providers will be required to address any HCBS rule deficiencies.

When HCBS participants are resident in the setting, waiver program care managers are required to have ongoing contact, including face-to-face visits, at which time any areas of concern would be identified and addressed. Each participant in a Medicaid home and community-based waiver program is further protected through the state's long-term care ombudsman program, which has regular access to the assisted living setting. [Wisconsin's Board on Aging & Long Term Care](#): The Board on Aging and Long Term Care advocates for the interests of Wisconsin's long-term care consumers, informs those consumers of their rights and educates the public about health care systems and long-term care. The Board also operates the [Long Term Care Ombudsman](#), and [Volunteer Ombudsman](#) services.

EVIDENTIARY ASSESSMENT AND SUMMARY
Home and Community-Based Services (HCBS) Settings Rule
Heightened Scrutiny Review – Community-Based Residential Facility (CBRF)

Facility Name Bluff Haven Assisted Living		Facility Type Community-Based Residential Facility (CBRF)	
Corporate Name (if applicable) Prairie Memorial Housing, LLC		License/Certification # 0012823	County Crawford
Facility Address 720 South Fremont St.	City Prairie du Chien	State WI	Zip Code 53821
Primary Contact Name Dana Cota	Primary Contact Direct Phone (include area code) 608-326-3200	Primary Contact Email Address dlc@chscwi.org	
Facility Website Address https://www.chscwi.org/assisted-living/bluff-haven-assisted-living-prairie-du-chien-wi/			

Reason for Institutional Presumption

- Settings in a publicly or privately operated facility that provides inpatient institutional treatment. [Prairie Maison Nursing Home](#)
- Settings on the grounds of, or adjacent to, a public institution. Name of institution: [Click or tap here to enter text.](#)
- Settings with the effect of isolating individuals from the broader community of individuals not receiving HCBS waiver services.

The Centers for Medicare and Medicaid Services' (CMS) HCBS settings rule assumes that certain settings are not home and community-based. If a Wisconsin assisted living facility (setting) meets one of the criteria for institutional presumption as defined above, the DHS Division of Medicaid Services (DMS) conducts a heightened scrutiny review.

DMS believes that Bluff Haven Assisted Living has overcome the institutional presumption and meets the criteria of a home and community-based services setting as summarized below.

To reinforce the extent to which Wisconsin's licensing and certification regulations and standards align with and reinforce the HCBS settings rule, the applicable state standard or regulation is included, where applicable, with the compliance review summary below.

Facility Summary

Bluff Haven Assisted Living is a community-based residential facility (CBRF) serving 20 residents located in Prairie du Chien, Wisconsin. Bluff Haven is owned and operated by Community Health Services Corporation and is connected to a residential care apartment complex (RCAC), Residence at Bluff Haven and a skilled nursing facility, Prairie Maison. Bluff Haven Assisted Living, built in 2009, is licensed by the State of Wisconsin. The facility includes 16 private studio rooms and 2 double occupancy rooms, and currently there are 12 residents supported by [Family Care](#). Prairie du Chien is located just above the confluence of the Mississippi and Wisconsin Rivers, and is the oldest European settlement on the Upper Mississippi River, the second-oldest settlement in the

state, and the oldest community on the Upper Mississippi River. It offers a wealth of historic sites and glimpses into authentic frontier life. French Canadians engaging in the fur trade settled on St. Feriole Island and each spring the Native Americans came to trade furs for goods. This “Rendezvous” is reenacted each year in June. The flourishing outpost attracted Hercules Dousman, who made a fortune in the fur trade and real estate. His son, Louis, built the famed Villa Louis mansion, a Victorian estate recently restored to its 1890’s splendor. The Carriage Classic is held on its grounds. Today, Prairie du Chien is a city of 6,000 and is the largest community in Crawford County. It is also the county seat. It offers numerous attractions, a variety of lodging and dining establishments, shopping, unique annual events, and unlimited recreational choices.

The setting is integrated in and supports full access to the greater community [42 CFR § 441.301(c)(4)(i)].

The community considers the setting a part of their community and does not associate the setting with institutional services.

Met Unmet Not Applicable

During an onsite review with Bluff Haven, reviewer enjoyed meeting with a number of community volunteers and residents to learn more about their experience living at Bluff Haven and the greater Prairie du Chien community. The majority of residents make their home in the area and are still involved in the area activities as collaboration between Bluff Haven and the ADRC. Residents still maintain close ties in the community. A few residents still drive, go to their summer cottages, and live an active lifestyle.

Materials submitted include the Aging and Disability Resources (ADRC) Eagle News, marketing brochure, community event flyers, etc.

- The ADRC Eagle News provides a menu for the Prairie du Chien Nutrition Site for community seniors, as well as the menu selections prepared by the campus nursing home. Each weekday, over 20 community citizens purchase items from the campus restaurant, Brown’s Bistro. The community meal site is located in The Commons room in the plaza area on campus between Bluff Haven and the nursing home. People without disabilities in the Prairie du Chien community are comfortable with the facility and do not view the setting as institutionalized.
- Marketing flyer submitted highlights that outpatient therapy and a local massage therapy business, housed at the facility, are open to all community residents.
- Community blood drives are held in the Commons room on the campus.
- Brown’s Bistro restaurant is open to community members for breakfast and lunch.
- Daily activities are hosted at the campus’ drop-in center for Prairie du Chien senior citizens.

Individuals, to the extent they desire, have opportunities to participate in typical community life activities outside of the setting.

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning: The plan must be based on an assessment that addresses the person’s “capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known” and “social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs.” (Summarized from [Wis. Admin. Code § DHS 83.35](#))

Program Services: Community activities. The CBRF shall provide information and assistance to facilitate participation in personal and community activities. The CBRF shall develop, update and make available to all residents, monthly schedules and notices of community activities, including costs. ([Wis. Admin. Code § DHS 83.38\(1\)\(d\)](#))

Family and social contacts: The CBRF shall encourage and assist residents in maintaining family and social contacts. (Wis. Admin. Code § DHS 83.38(1)(e))

Met Unmet Not Applicable

- Resident sign-out sheet: “All residents have the right to leave the facility at any time of the day.”
- Bluff Haven *Program Statement, Section D, Leisure Time Activities*: “Daily activities in groups and individually will be encouraged and provided to meet the interests and capabilities of the residents. Organized activities include morning, evening walks, card games, picnics, crafts, exercise classes, etc. Each resident is free to participate or not participate as they wish.”
- *Cover letter*: “Residents at the HCBS setting enjoy the company of family and friends, and leave the facility to go shopping, eat out at a restaurant, go to the hair salon, etc.
- A review of submitted person-centered plans specifically identify choice in the setting selection, choice for activities, family contacts, etc. Each person-centered plan contains a section named *Community Integration*. One resident’s plan indicated that the resident sees and visits with her family each day and attends Sunday church with her family.

Activities are individualized or include more than just setting-based group activities.

Met Unmet Not Applicable

- There is an extensive activity program at Bluff Haven both in-house and in the community. Residents are encouraged and helped to identify other community activities they wish to continue or pursue, including employment or volunteering. At admission, an initial person-centered plan is developed and individualized for each resident. A review of submitted person-centered plans describes that one of the residents has their own vehicle and attends community senior center activities. Another person-centered plan describes a resident that volunteers at her local church and sings in the choir.
- Residents can have their own vehicles and can come and go as they please.
- Tai Chi classes are available on site, there is a speaker series at Bluff Haven; Music in the Park, etc.
- Five resident files were reviewed to evaluate the process of developing and maintaining a resident’s Individual Care Plan. Bluff Haven had excellent documentation for their person-centered plans. The template reflected not only the medical and presenting issues for each resident, but also that resident’s goals and psychosocial wellbeing. The plans were expressive in areas of activities, involvement, and state of mind.

The setting supports access to community activities through its own transportation or coordination of transportation options.

Met Unmet Not Applicable

- Residents are able to utilize their own vehicle.
- *Program statement*: “Transportation services can be provided by the facility for medical and healthcare appointments.” Transportation can also be arranged through family and friends.
- The ADRC provides local transportation to seniors in the community through its van service and other complimentary transportation options.

Individuals, if they choose, have opportunities to seek employment and work in competitive integrated settings.

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning:

The plan must be based on an assessment that addresses the person’s “capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known” and “social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs.” ([WI Statewide Transition Plan](#); Summarized from [Wis. Admin. Code § DHS 83.35](#)).

From contract between DHS and specific MCOs:

V. Care Management:

C. Assessment and Member-Centered Planning Process

C.1. Comprehensive Assessment

C.1.(c) Documentation: The comprehensive assessment will include documentation by the IDT staff of:

C.1.(c)(viii) An exploration with the member of the member’s preferences and opportunities for community integration including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community.

C.3. Member-Centered Planning

C.3.(c)(iv)(g) The setting in which the member resides supports integration into 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.

VII. Services

A. General Provisions

1. Comprehensive Service Delivery System

c. Serve to maintain community connections, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, and that are cost effective.

Addendum I

It is the DHS’s “expectation under this contract that benefits will be fully integrated and will afford options that foster opportunities for interaction and integration into 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 while supporting each member’s individual outcomes and recognizing each member’s preferences.”

Met Unmet Not Applicable

Cover letter confirms that residents are encouraged to maintain their volunteer positions in the community and residents are encouraged to work and volunteer.

Individuals are able to control their personal resources.

Compliance within Wisconsin State Standards and Regulations

Every resident in a community-based residential facility has the right to “manage the resident’s own financial affairs, unless the resident delegates, in writing, such responsibility to the facility and the facility accepts the responsibility or unless the resident delegates to someone else of the resident’s choosing and that person accepts the responsibility.” (Statewide Transition Plan; [Wis. Stat. § 50.09](#)).

Met Unmet Not Applicable

Residents have complete control over their personal funds and resources. There is a small bank, as well as an ATM on the campus. Upon resident request, Bluff Haven will establish an account, with 24/7 accessibility.

The setting is selected by the individual from among setting options including non-disability specific settings. [42 CFR § 441.301(c)(4)(ii)].

Compliance within Wisconsin State Standards and Regulations

Wisconsin has protections in place for Medicaid waiver participants which ensure they understand their choices. DHS waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are responsible for discussing choice of service settings with the waiver participant and family/guardian to locate the most suitable provider setting, including a discussion of living in a non-disability specific setting. In practice, the waiver agencies are complying with this requirement, and documenting and monitoring the choice of settings in the member-centered plan or IRIS support and service plan, as applicable.

In Wisconsin, the choice of setting requirement is not the initial responsibility of the provider setting. Rather the choice of setting takes place through the person-centered planning process at the waiver agency level. Waiver agencies are certified by DHS and work within the requirements of contracts with DHS. Through ongoing monitoring, Wisconsin will ensure that individuals maintain the right to choose where they reside.

Additionally, Wisconsin has protections in place through *Pre-Admission Consultation (PAC)*: <https://www.dhs.wisconsin.gov/adrc/pros/pac.htm>.

“Pre-admission consultation is a service provided by Aging and Disability Resource Centers (ADRCs) to individuals who are in the process of considering or making a decision about the need to move out of his or her home in order to receive the help they need to remain independent and safe. Sometimes people are unaware that there are services and supports that can be provided right in their own home, often making a move unnecessary. Those who want to move into a nursing home or assisted living facility (such as a community based residential facility or residential care apartment complex), can find it difficult to know which facility would be the best for them or a loved one.”

Met Unmet Not Applicable

- Some residents chose Bluff Haven before they were eligible for waiver services, using their own resources to pay for their room, board and services. The [ADRC Options Counseling](#) process reviews choice of living arrangements. Individuals who are eligible for waiver services are referred to the managed care organization of their choice. The member-centered assessment and planning process then includes discussion of choice of settings, and each subsequent review, including after the individual is residing in their setting of choice, includes discussion of where they want to live. Residents who choose to do so “apply” to Bluff Haven and participate in a tenant assessment before admission. At admission, residents agree to and sign an admission agreement.
- A review of the submitted person-centered plans includes “setting of choice” signatures, MCO signature page, etc.

The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and resources available for room and board. [42 CFR § 441.301(c)(4)(ii)].

Compliance within Wisconsin State Standards and Regulations

“COMPREHENSIVE INDIVIDUAL SERVICE PLAN Individual service plan review. Annually or when there is a change in a resident's needs, abilities or physical or mental condition, the individual service plan shall be reviewed and revised based on the assessment under sub. (1). All reviews of the individual service plan shall include input from the resident or legal representative, case manager, resident care staff, and other service providers as appropriate.” ([Wis. Admin. Code § DHS 83.35 \(1\)\(d\)](#))

Met Unmet Not Applicable

Program Statement, Section V, Special Aspects: Outlines room, board, rent and resources that are available to each individual resident. Additionally, the statement includes Individual Service Plans, which outlines and confirms the resident’s choices on healthcare, personal care, room and board.

The setting facilitates choice regarding services and supports, and who provides them. Individuals have a choice in selecting their service providers, and are not reliant on services from the institution to the exclusion of other community-based options. Individuals can choose to receive services in the community to the same degree as individuals not receiving Medicaid HCBS. [42 CFR § 441.301(c)(4)(v)]

Compliance within Wisconsin State Standards and Regulations

Before or at the time of admission, the CBRF shall provide written information regarding services available and the charges for those services to each resident or the resident’s legal representative. This information shall include any charges for services not covered by the daily or monthly rate (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.29](#)).

Person-Centered Planning

- “Options of services, providers, and settings, including non-disability specific settings, are offered to participants in all Wisconsin HCBS programs.” (WI Statewide Transition Plan; Summarized from Wis. HCBS waivers, waiver-specific contracts, and policy documents.)

- Residents have the right to “use the licensed, certified or registered provider of health care and pharmacist of the resident’s choice.” ([Wis. Stat. § 50.09](#))

Met Unmet Not Applicable

Program Statement and Resident Rights documents state that residents are “able to choose medical services at many area clinics including Gundersen, Mayo, and Crossing Rivers Health. Transportation services to appointments are available upon request.”

The setting optimizes, but does 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. [42 CFR § 441.301(c)(4)(iv)]

Compliance within Wisconsin State Standards and Regulations

Rights: Licensees must protect the civil rights of residents. Residents have the right to make decision relating to care, activities, daily routines, and other aspects of life that enhance the resident’s self-reliance and support the resident’s autonomy and decision-making. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.32](#)).

Person-Centered Planning: The plan must be based on an assessment that addresses the person’s capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known, and social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts, and vocational needs. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.35](#)).

“The CBRF shall teach residents the necessary skills to achieve and maintain the resident’s highest level of functioning.” The CBRF shall provide or arrange services adequate to meet the needs of the residents including providing leisure time activities, facilitating participation in community activities, and encouraging and assisting residents in maintaining family and social contacts. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.38](#)).

Rights: Residents have the right to make decisions relating to care, activities, daily routines, and other aspects of life that enhance the resident’s self-reliance and support the resident’s autonomy and decision making, and have the least restrictive conditions necessary to achieve the purposes of the resident’s admission. The CBRF may not impose a curfew, rule, or other restriction on a resident’s freedom of choice. (Statewide Transition Plan; Summarized from Wis. Admin. Code § DHS 83.32).

Met Unmet Not Applicable

- Bluff Haven residents have independence and choice in daily activities onsite and in the community. Residents can come and go as they please, have privacy in their apartment, and may participate in social, religious and community activities of one’s choice. The *Program Statement Leisure Time Activities* section states “daily activities in groups and individually will be encouraged and provided to meet the interests and capabilities of residents. Organized activities may include morning and evening walks, cards games, etc.”
- There is not a curfew at Bluff Haven and residents can come and go as they choose.

Individuals have the freedom and support to control their own schedules and activities. [42 CFR § 441.301(c)(4)(vi)(C)]

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning: The plan must be based on an assessment that addresses the person’s “capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known” and “social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs.” (Statewide Transition Plan, pg. 72; Summarized from Wis. Admin. Code § DHS 83.35) Rights: Licensees must protect the civil rights of residents. Residents have the right to make decision relating to care, activities, daily routines, and other aspects of life that enhance the resident’s self-reliance and support the resident’s autonomy and decision-making. (Summarized from Wis. Admin. Code § DHS 83.32)

Met Unmet Not Applicable

Residents control their daily schedules and activities. A review of submitted person-centered plans describes a resident who chooses to sleep in late each day. Another resident chooses his mealtime and frequently has his meal in his apartment.

The setting ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint, [42 CFR § 441.301(c)(4)(iii)].

Compliance within Wisconsin State Standards and Regulations

Rights: Residents have the right to be "treated with courtesy, respect and dignity by all employees of the facility and other providers of health care and pharmacists with whom the resident comes in contact." ([Statewide Transition Plan](#), pg. 72; Summarized from [Wis. Stat. § 50.09](#)).

Residents must be provided with "physical and emotional privacy in treatment, living arrangements, and in caring for personal needs" including, privacy for visits by spouse or domestic partner, or to share a room with a spouse or domestic partner if both are residents for the same facility; privacy concerning health care; confidentiality of health and personal records; and the right to approve or refuse their release to any individual outside the facility. (Statewide Transition Plan, pg. 72; Summarized from Wis. Stat. § 50.09).

"Any form of coercion to discourage or prevent a resident or the resident's legal representative from exercising any of the rights under this subchapter is prohibited. Any form of retaliation against a resident or the resident's legal representative for exercising any of the rights in this subchapter, or against an employee or any other person who assists a resident or the resident's legal representative in the exercise of any of the resident rights in this subchapter, is prohibited." (Statewide Transition Plan, pg. 72; Wis. [Admin. Code § DHS 83.32](#)).

In addition, each resident shall have all of the following rights: freedom from mistreatment; freedom from seclusion; freedom from chemical restraint; and freedom from physical restraints, except upon prior review and approval by DHS upon written authorization from the resident's primary physician or advanced practice nurse prescriber. DHS may place conditions on the use of a restraint to protect the health, safety, welfare, and rights of the resident. (Statewide Transition Plan; Summarized from Wis. Admin. Code § DHS 83.32).

Met Unmet Not Applicable

A review of *Resident Rights* confirms that each resident is free from restraints, seclusion, and mistreatment.

Individuals are able to have visitors of their choosing at any time. [42 CFR § 441.301(c)(4)(vi)(D)]

Compliance within Wisconsin State Standards and Regulations

Rights: Residents have the right to private and unrestricted communications with their family, physician or other medical provider, attorney, and any other person, unless documented as medically contraindicated. The right to private and unrestricted communications includes the right to reasonable access to a telephone for private communications; and the opportunity for private visits. (WI Statewide Transition Plan; Summarized from Wis. Stat. § 50.09).

Met Unmet Not Applicable

Visitors are welcome on a 24-hour basis, and each resident can choose when they want visitors.

Individuals have access to food at any time.

Compliance within Wisconsin State Standards and Regulations

The CBRF must provide each resident with palatable food that meets the recommended dietary allowance based on current guidelines, including at least three meals a day and a snack in the evening, or more often based on the resident's dietary needs. If a resident is away during meal time, the CBRF shall offer food

to the resident on the resident's return. The CBRF shall make reasonable adjustments to the menu for individual resident likes, habits, customs, condition, and appetites. (Summarized from Wis. Admin. Code § DHS 83.41).

Met Unmet Not Applicable

Program Statement, Section M, Food Services states that before and after admission, the resident/family will be asked which types of food the resident likes/dislikes. A daily menu is posted in the facility for resident review. Meals and snacks are available on a 24/7 basis, and the facility provides three meals each day in the dining room. There is a bistro restaurant on campus that residents can also use.

The living unit is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services:

- The individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the applicable landlord/tenant laws.
- The State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law. [42 CFR § 441.301(c)(4)(vi)(A)]

Compliance within Wisconsin State Standards and Regulations

"Each resident shall have a written agreement that is signed by and provided to each party. The agreement includes a description of the space to be provided to the resident, the agreed upon rate, a statement of the resident's rights and the terms of termination, including timeframes. The agreement is updated annually." ([WI Statewide Transition Plan](#), pg. 77; [Wis. Admin. Code § DHS 83.29](#)).

The agreement must include terms for resident notification to the CBRF of voluntary discharge, and reasons and notice requirements for involuntary discharge or transfer, including transfers within the CBRF. (Summarized from [Wis. Admin. Code § DHS 83.31](#)).

Met Unmet Not Applicable

- *Program Statement* and *Residency Service Agreement* both outline specific room, board and rent charges, personal furnishings, accommodations and amenities.
- Residents at Bluff Haven are given notice of at least 30 days of transfer, discharge and termination, as described in the resident living agreement.

Overcoming Institutional Presumption

The setting demonstrated a meaningful physical distinction between the HCBS setting and the institutional setting, including separate entrances and signage, physical divisions, and differences in décor.

Met Unmet Not Applicable

- During the onsite review, the reviewer confirmed that Bluff Haven is part of a bigger campus that includes an activity center, ice cream shop, lounge area, dining bistro. Bluff Haven is on one side of the campus, and the SNF is separated by the activity center. The RCAC is separate and is distinct on campus. There are separate entrances and separate signage that directs residents, families, and visitors to the individual facilities.
- Photographs submitted include separate signage for Prairie Maison, the skilled nursing facility.
- Photo submitted confirm separate signage for the CBRF.
- Photos show interior signage in the Village Plaza for the SNF.

Each individual has privacy in their sleeping or living unit.

Compliance within Wisconsin State Standards and Regulations

Residents must be provided with “physical and emotional privacy in treatment, living arrangements, and in caring for personal needs” including, privacy for visits by spouse or domestic partner, or to share a room with a spouse or domestic partner if both are residents for the same facility; privacy concerning health care; confidentiality of health and personal records; and the right to approve or refuse their release to any individual outside the facility. (Statewide Transition Plan; Summarized from Wis. Stat. § 50.09).

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance surveyors that the setting (DQA, [F-02138](#), HCBS Compliance Review):

- Provides lockable key entry doors on all resident rooms, and individual keys to all residents.
- Has a policy ensuring that staff uses facility keys to enter a resident’s room only under circumstances agreed upon with the resident.

Met Unmet Not Applicable

Resident Key Agreement: Bluff Haven will “supply one door lock key to each resident for their individual living unit.” “Authorized Bluff Haven staff are to knock, announce themselves, and use a key to access the resident living unit for emergencies and resident requests.”

Individual living units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.

Compliance within Wisconsin State Standards and Regulations

Locks on living unit doors allow the resident to exercise his or her right to privacy and personal choice. Staff in each residential setting should always knock and receive permission prior to entering a resident’s living space. DHS expects the residential setting to have a policy in place to ensure that staff always knock and receive permission prior to entering a resident’s room or personal living space to respect residents’ rights to privacy. Please refer to DHS’ [Frequently Asked Questions \(FAQs\) about Door Locks in Adult Long-Term Care Residential Settings](#) for additional lock-related information.

Met Unmet Not Applicable

Resident Key Agreement Policy confirms that individual living unit entrance doors have keyed locks and only appropriate staff have keys to the doors.

Individuals sharing units have a choice of roommates in that setting.

Compliance within Wisconsin State Standards and Regulations

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance surveyors that residents have choice of roommates (DQA, [F-02138](#), HCBS Compliance Review):

Person-Centered Planning: Family Care Provider Network, I. Access to Providers: “For residential care facilities, evidence of adequate capacity shall include identification of the availability of residential providers offering private rooms, and a process for moving an individual to a private room when one becomes available that is consistent with the member’s preferences.” ([DHS-MCO Contract, Article VIII, I\(6\)d](#))

Met Unmet Not Applicable

All of the living units are individual and there are two suites for two people but generally for a married couple.

Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement. [42 CFR § 441.301(c)(4)(vi)(B)(1-3)]

Compliance within Wisconsin State Standards and Regulations

Met Unmet Not Applicable

Resident Services Agreement, Furnishings: – “Resident or Resident’s Representative may furnish the Unit with his or her own furniture, as space permits.”

The setting is physically accessible to the individual. [42 CFR § 441.301(c)(4)(vi)(E)]

Compliance within Wisconsin State Standards and Regulations

Met Unmet Not Applicable

- Bluff Haven is physically accessible inside and outside.
- During the onsite review, the reviewer observed accessible entrances, exits, one floors, and egresses that were all accessible.

Operational Distinction

The setting demonstrated meaningful operational distinction between the institution and the community-based setting, such as minimal administrative and financial interconnectedness.

Met Unmet Not Applicable

- Administrative offices for Bluff Haven are separate from the SNF. Additionally, Bluff Haven has its own Nursing Director, Administrator and Administrative Assistant who have sole responsibilities for the CBRF.
- During the onsite review, financial statements, budgets, and allocation documents were reviewed; all of Bluff Haven’s financial documents and facility budgets are separate from both the SNF and the RCAC.

There is a distinction between staff for the HCBS setting and the institutional setting. Staff working in the HCBS setting receive initial and ongoing training on HCBS settings rule requirements and principles, and person-centered planning.

Met Unmet Not Applicable

- A review of the plan indicates that all staff take the mandatory CBRF training and meet the 15-hour annual continuing education requirement.
- The HCBS training checklist outlines consistent training for all staff in the HCBS setting.

DHS Recommendation

DHS finds that [Bluff Haven Assisted Living](#) possesses the required home and community-based characteristics, is not isolatin in nature, and overcomes the presumption of having institutional qualities.

Please note that these findings are preliminary only and must receive final approval from CMS.

In accordance with federal requirements, all compliance results will be made public by DHS. The decision will appear on the subsequent upload of facility information to DHS websites, including the [DQA Provider Search webpage](#) and the provider directories available at the [Consumer Guide to Health Care – Finding and Choosing an Assisted Living Facility webpage](#).

Ongoing Compliance

Wisconsin’s Division of Quality Assurance (DQA) will ensure through ongoing compliance reviews that [Bluff Haven Assisted Living](#) continues to meet the requirements of the HCBS Settings Rule. The DMS Bureau of Assisted Living (BAL) has incorporated the HCBS settings rule into its current assisted living survey process and activities. ([DQA Implementation of Home and Community-Based Services Settings Rule in Residential Assisted Living Facilities](#))

Waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are certified by the Wisconsin Department of Health Services (DHS) and work within the requirements of contracts with DHS. State licensed settings are subject to unannounced licensing visits, both in response to complaints and during regular oversight visits, by the state licensing authority, or by the entity that certified the provider if not regulated by the state. As part of these periodic licensing or certification reviews, the credentialing entity will also review the setting for continued HCBS compliance. Providers will be required to address any HCBS rule deficiencies.

When HCBS participants are resident in the setting, waiver program care managers are required to have ongoing contact, including face-to-face visits, at which time any areas of concern would be identified and addressed. Each participant in a Medicaid home and community-based waiver program is further protected through the state's long-term care ombudsman program, which has regular access to the assisted living setting. [Wisconsin's Board on Aging & Long Term Care](#): The Board on Aging and Long Term Care advocates for the interests of Wisconsin's long-term care consumers, informs those consumers of their rights and educates the public about health care systems and long-term care. The Board also operates the [Long Term Care Ombudsman](#), and [Volunteer Ombudsman](#) services.

EVIDENTIARY ASSESSMENT AND SUMMARY
Home and Community-Based Services (HCBS) Settings Rule
Heightened Scrutiny Review – Community-Based Residential Facility (CBRF)

Facility Name Bornemann CBRF South and Bornemann CBRF North		Facility Type Community-Based Residential Facility (CBRF)	
Corporate Name (if applicable) Bornemann CBRF S Operating Company LLC Bornemann CBRF N Operating Company LLC		License/Certification # South: #0015320 North: #0015319	County Brown
Facility Address Bornemann South: 185 Mills Street Bornemann North: 1866 Brook Street	City Green Bay	State WI	Zip Code 54302
Primary Contact Name JoAnn Shepherd	Primary Contact Direct Phone (include area code) 920-468-8675	Primary Contact Email Address Shepherd@bornemannsc.com	
Facility Website Address https://www.bornemannhomes.com/services/assisted-living-cbrf/			

Reason for Institutional Presumption

- Settings in a publicly or privately operated facility that provides inpatient institutional treatment. [Bornemann Nursing Home](#)
- Settings on the grounds of, or adjacent to, a public institution. Name of institution: [Click or tap here to enter text.](#)
- Settings with the effect of isolating individuals from the broader community of individuals not receiving HCBS waiver services.

The Centers for Medicare and Medicaid Services' (CMS) HCBS settings rule assumes that certain settings are not home and community-based. If a Wisconsin assisted living facility (setting) meets one of the criteria for institutional presumption as defined above, the DHS Division of Medicaid Services (DMS) conducts a heightened scrutiny review.

DMS believes that Bornemann CBRF South and Bornemann CBRF North has overcome the institutional presumption and meets the criteria of a home and community-based services setting as summarized below.

To reinforce the extent to which Wisconsin's licensing and certification regulations and standards align with and reinforce the HCBS settings rule, the applicable state standard or regulation is included, where applicable, with the compliance review summary below.

Facility Summary

Bornemann Senior Communities are located on the east side of the city of Green Bay, situated amongst a number of other apartment complexes and neighborhoods with residential single-family homes. Bornemann is near the bus route, about 1.5 miles from the heart of Green Bay, with easy access to shopping, dining and other services. The 127-bed SNF has been offering skilled nursing care and rehabilitation for more than 50 years.

The 2.3 acre campus also includes two 20-bed CBRFs – Bornemann South built in 2001, and Bornemann North built in 2006. Each facility has its own main entrance and separate address. The entrance to Bornemann South is on Mills St, the entrance to Bornemann North is on Brook Street, and the nursing home entrance is on Bornemann Street. The focus of this heightened scrutiny review will be on the two CBRFs – Bornemann North and Bornemann South.

Demographically, the Bornemann North residents are of a higher average age than the Bornemann South residents. Bornemann South residents have more intellectual challenges, with several residents receiving behavioral health services. The CBRFs are operated on a person-centered, community integration philosophy, and aim to improve the life experiences of the residents. The family-friendly setting supports the wellness of the whole person, including their physical, mental, social and spiritual needs. Residents are actively involved in local organizations and events, and are proud to be a part of the vibrant and historic Green Bay area.

The setting is integrated in and supports full access to the greater community [42 CFR § 441.301(c)(4)(i)].

The community considers the setting a part of their community and does not associate the setting with institutional services.

Met Unmet Not Applicable

Bornemann strives to be an organization that is involved in the local and broader Green Bay community. Staff continually finds opportunities to host or participate in community events like Trick or Treating, National Night Out, and local festivals, celebrations, and musical events.

Individuals, to the extent they desire, have opportunities to participate in typical community life activities outside of the setting.

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning: The plan must be based on an assessment that addresses the person's "capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known" and "social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs." (Summarized from [Wis. Admin. Code § DHS 83.35](#))

Program Services: Community activities. The CBRF shall provide information and assistance to facilitate participation in personal and community activities. The CBRF shall develop, update and make available to all residents, monthly schedules and notices of community activities, including costs. ([Wis. Admin. Code § DHS 83.38\(1\)\(d\)](#))

Family and social contacts: The CBRF shall encourage and assist residents in maintaining family and social contacts. (Wis. Admin. Code § DHS 83.38(1)(e))

Residents are encouraged to participate in planned community activities and to leave the setting with family and friends whenever they wish. The settings are on the public transportation bus line. Green Bay Metro buses accommodate wheelchairs and scooters. Shared ride services like medical transport vehicles, taxis and Uber are other transportation options. There are restaurants within walking distance, and one resident goes to the diner daily. Shopping areas are within 1-1.5 miles. Along with the nearby bus line, residents either walk, use their scooters, take a taxi or have family take them out. Bornemann Communities strives to be an organization that is involved in the local and broader Green Bay community.

Activities are individualized or include more than just setting-based group activities.

Met Unmet Not Applicable

While some Bornemann North and South activities are separate from the SNF, others are combined for increased socialization with others. Scheduled outings are planned and arranged to enable residents to remain involved in the community, including local concerts, shopping trips, dining at area restaurants, senior center parties, park trips and parades.

Residents are encouraged to participate in planned community activities and to leave the setting with family and friends whenever they wish. A comment on one resident’s ISP said “remind resident to inform staff if planning to be out of the facility.” ISP development includes discussion of preferred activities both within the setting and off site. Activity calendars are distributed to residents and posted on common area bulletin boards. One Bornemann resident goes to a local diner daily and another goes out regularly to shop at the Family Dollar store. Residents are encouraged to continue to be involved in the community, attend events, volunteer, or do whatever meets their personal interest.

The setting supports access to community activities through its own transportation or coordination of transportation options.

Met Unmet Not Applicable

Bornemann North and South coordinate scheduled medical appointments, and several transportation options are available. Family members and friends are encouraged to assist with transportation, as well. For facility group activities, there is no charge for transportation. Scheduled outings are planned and arranged to enable residents to remain involved in the community, such as local concerts, shopping trips, dining at area restaurants, senior center parties, park trips, and parades.

The campus settings are on the public transportation bus line, and Green Bay Metro buses accommodate wheelchairs and scooters. Shared ride services like medical transport vehicles, taxis, and Uber are also available. Residents can have their own car and can park at the CBRF buildings. Parking areas are located at each of the main entrances.

Individuals, if they choose, have opportunities to seek employment and work in competitive integrated settings.

Met Unmet Not Applicable

The philosophy of Bornemann North and South states “people should be supported to optimize their personal, social and vocational competency to live successfully in the community.” Interests are discussed during ISP development. The member-centered planning process outcomes section includes a discussion of any employment and volunteer activities, along with other community interests.

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning:

The plan must be based on an assessment that addresses the person’s “capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known” and “social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs.” ([WI Statewide Transition Plan](#); Summarized from [Wis. Admin. Code § DHS 83.35](#)).

From contract between DHS and specific MCOs:

V. Care Management:

C. Assessment and Member-Centered Planning Process

C.1. Comprehensive Assessment

C.1.(c) Documentation: The comprehensive assessment will include documentation by the IDT staff of:

C.1.(c)(viii) An exploration with the member of the member’s preferences and opportunities for community integration including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community.

C.3. Member-Centered Planning

C.3.(c)(iv)(g) The setting in which the member resides supports integration into 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.

VII. Services

A. General Provisions

1. Comprehensive Service Delivery System

- c. Serve to maintain community connections, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, and that are cost effective.

Addendum I

It is the DHS’s “expectation under this contract that benefits will be fully integrated and will afford options that foster opportunities for interaction and integration into 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 while supporting each member’s individual outcomes and recognizing each member’s preferences.”

Met Unmet Not Applicable

Residents at Bornemann North and South are involved, along with their representative waiver agency, in developing their member-centered plan. At that time, they are asked about outcomes, and discuss settings, employment and many other issues that may be important to them. If they are interested in Bornemann North or South, they engage in a preadmission evaluation which includes functional, psychological, wellness, and ADL evaluations. When the resident moves in, a preliminary care plan is developed with the resident, followed by a 30-day care plan and ISP development and review. ISPs are reviewed on a regular basis or whenever there is a change in condition. The resident can also ask for a review of services and changes to their ISP at any time. This process is detailed in the *Health Dimensions Group ISP Process Overview Policy*.

Individuals are able to control their personal resources.

Compliance within Wisconsin State Standards and Regulations

Every resident in a community-based residential facility has the right to “manage the resident’s own financial affairs, unless the resident delegates, in writing, such responsibility to the facility and the facility accepts the responsibility or unless the resident delegates to someone else of the resident’s choosing and that person accepts the responsibility.” (Statewide Transition Plan; [Wis. Stat. § 50.09](#)).

Met Unmet Not Applicable

If they choose, residents of Bornemann North and South can request that the business office hold some of their funds, up to \$200. If so, they sign a personal funds authorization which specifies what their personal funds may be used for, such as the onsite barber services, podiatrist, subscription, cable TV, and transportation for medical appointments or community activities. They can also request to withdraw their funds for whatever reasons they wish.

The setting is selected by the individual from among setting options including non-disability specific settings. [42 CFR § 441.301(c)(4)(ii)].

Compliance within Wisconsin State Standards and Regulations

Wisconsin has protections in place for Medicaid waiver participants which ensure they understand their choices. DHS waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are responsible for discussing choice of service settings with the waiver participant and family/guardian to locate the most suitable provider setting, including a discussion of living in a non-disability specific setting. In practice, the waiver agencies are complying with this requirement, and documenting and monitoring the choice of settings in the member-centered plan or IRIS support and service plan, as applicable.

In Wisconsin, the choice of setting requirement is not the initial responsibility of the provider setting. Rather the choice of setting takes place through the person-centered planning process at the waiver agency level. Waiver agencies are certified by DHS and work within the requirements of contracts with DHS. Through ongoing monitoring, Wisconsin will ensure that individuals maintain the right to choose where they reside.

Additionally, Wisconsin has protections in place through *Pre-Admission Consultation (PAC)*: <https://www.dhs.wisconsin.gov/adrc/pros/pac.htm>.

“Pre-admission consultation is a service provided by Aging and Disability Resource Centers (ADRCs) to individuals who are in the process of considering or making a decision about the need to move out of his or her home in order to receive the help they need to remain independent and safe. Sometimes people are unaware that there are services and supports that can be provided right in their own home, often making a move unnecessary. Those who want to move into a nursing home or assisted living facility (such as a community based residential facility or residential care apartment complex), can find it difficult to know which facility would be the best for them or a loved one.”

Met Unmet Not Applicable

Residents at Bornemann North and South, along with their representative waiver agency, are involved in developing their member-centered plan. They are asked about outcomes, and discuss settings, employment and many other issues that may be important to them. If they are interested in residing at Bornemann North or South, they engage in a preadmission evaluation which includes functional, psychological, wellness, and ADL evaluations. At the time of admission, the individual agrees and signs the admission agreement.

The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and resources available for room and board. [42 CFR § 441.301(c)(4)(ii)].

Compliance within Wisconsin State Standards and Regulations

“COMPREHENSIVE INDIVIDUAL SERVICE PLAN Individual service plan review. Annually or when there is a change in a resident's needs, abilities or physical or mental condition, the individual service plan shall be reviewed and revised based on the assessment under sub. (1). All reviews of the individual service plan shall include input from the resident or legal representative, case manager, resident care staff, and other service providers as appropriate.” ([Wis. Admin. Code § DHS 83.35 \(1\)\(d\)](#))

Met Unmet Not Applicable

Both Bornemann CBRFs are operated on a person-centered, community integration philosophy and aim to improve the life experiences of the residents. The request for changes in service plans states “At any time if you would like to discuss your care plan, review it, modify it or request additional services, please contact our CBRF Manager or RN. We would be happy to meet with you and discuss your request and adjust/modify your service plan to best meet your needs and desires.”

The setting facilitates choice regarding services and supports, and who provides them. Individuals have a choice in selecting their service providers, and are not reliant on services from the institution to the exclusion of other community-based options. Individuals can choose to receive services in the community to the same degree as individuals not receiving Medicaid HCBS. [42 CFR § 441.301(c)(4)(v)]

Compliance within State Standards

Before or at the time of admission, the CBRF shall provide written information regarding services available and the charges for those services to each resident or the resident's legal representative. This information shall include any charges for services not covered by the daily or monthly rate (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.29](#)).

Person-Centered Planning

- “Options of services, providers, and settings, including non-disability specific settings, are offered to participants in all Wisconsin HCBS programs.” (WI Statewide Transition Plan; Summarized from Wis. HCBS waivers, waiver-specific contracts, and policy documents.)
- Residents have the right to “use the licensed, certified or registered provider of health care and pharmacist of the resident's choice.” ([Wis. Stat. § 50.09](#))

Met Unmet Not Applicable

The resident rights listing in the admission agreement states that the resident has the right “to exercise complete choice of providers of physical and mental health care and of pharmacy.” Bornemann North and South residents may continue care with their own attending physician and other medical and pharmacy providers of their choice. They may obtain other services in the community as they choose.

The setting optimizes, but does 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. [42 CFR § 441.301(c)(4)(iv)]

Compliance within Wisconsin State Standards and Regulations

Rights: Licensees must protect the civil rights of residents. Residents have the right to make decision relating to care, activities, daily routines, and other aspects of life that enhance the resident’s self-reliance and support the resident’s autonomy and decision-making. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.32](#)).

Person-Centered Planning: The plan must be based on an assessment that addresses the person’s capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known, and social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts, and vocational needs. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.35](#)).

“The CBRF shall teach residents the necessary skills to achieve and maintain the resident’s highest level of functioning.” The CBRF shall provide or arrange services adequate to meet the needs of the residents including providing leisure time activities, facilitating participation in community activities, and encouraging and assisting residents in maintaining family and social contacts. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.38](#)).

Rights: Residents have the right to make decisions relating to care, activities, daily routines, and other aspects of life that enhance the resident’s self-reliance and support the resident’s autonomy and decision making, and have the least restrictive conditions necessary to achieve the purposes of the resident’s admission. The CBRF may not impose a curfew, rule, or other restriction on a resident’s freedom of choice. (Statewide Transition Plan; Summarized from Wis. Admin. Code § DHS 83.32).

Met Unmet Not Applicable

The admission agreement and other documents stress that residents at Bornemann North and South are encouraged to be as independent as possible. Residents may plan their schedule and may come and go from the facility as they wish. They have a choice to attend activities and with who whom they wish to spend time. ISPs are “developed with your participation . . . and socialization” preferences. One reviewed ISP specifically states that this “resident is independent with all decisions.”

Individuals have the freedom and support to control their own schedules and activities. [42 CFR § 441.301(c)(4)(vi)(C)]

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning: The plan must be based on an assessment that addresses the person’s “capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known” and “social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs.” (Statewide Transition Plan, pg. 72; Summarized from Wis. Admin. Code § DHS 83.35) Rights: Licensees must protect the civil rights of residents. Residents have the right to make decision relating to care, activities, daily routines, and other aspects of life that enhance the resident’s self-reliance and support the resident’s autonomy and decision-making. (Summarized from Wis. Admin. Code § DHS 83.32)

Met Unmet Not Applicable

The admission agreement and other documents stress that residents at Bornemann North and South are encouraged to be as independent as possible. Residents may plan their schedule and may come and go from the facility as they wish. They have a choice to attend activities and with whom they wish to spend time. ISPs are “developed with your participation . . . and socialization” preferences. One reviewed ISP specifically states that this “resident is independent with all decisions.”

The setting ensures an individual’s rights of privacy, dignity and respect, and freedom from coercion and restraint, [42 CFR § 441.301(c)(4)(iii)].

Compliance within State Standards

Rights: Residents have the right to be “treated with courtesy, respect and dignity by all employees of the facility and other providers of health care and pharmacists with whom the resident comes in contact.” ([Statewide Transition Plan](#), pg. 72; Summarized from [Wis. Stat. § 50.09](#)).

Residents must be provided with “physical and emotional privacy in treatment, living arrangements, and in caring for personal needs” including, privacy for visits by spouse or domestic partner, or to share a room with a spouse or domestic partner if both are residents for the same facility; privacy concerning health care; confidentiality of health and personal records; and the right to approve or refuse their release to any individual outside the facility. (Statewide Transition Plan, pg. 72; Summarized from Wis. Stat. § 50.09).

“Any form of coercion to discourage or prevent a resident or the resident’s legal representative from exercising any of the rights under this subchapter is prohibited. Any form of retaliation against a resident or the resident’s legal representative for exercising any of the rights in this subchapter, or against an employee or any other person who assists a resident or the resident’s legal representative in the exercise of any of the resident rights in this subchapter, is prohibited.” (Statewide Transition Plan, pg. 72; Wis. [Admin. Code § DHS 83.32](#)).

In addition, each resident shall have all of the following rights: freedom from mistreatment; freedom from seclusion; freedom from chemical restraint; and freedom from physical restraints, except upon prior review and approval by DHS upon written authorization from the resident’s primary physician or advanced practice nurse prescriber. DHS may place conditions on the use of a restraint to protect the health, safety, welfare, and rights of the resident. (Statewide Transition Plan; Summarized from Wis. Admin. Code § DHS 83.32).

Met Unmet Not Applicable

All living units at Bornemann North and South are private units, and each resident has their own key. Staff are trained in resident rights, CBRF training guidelines, and specific policies such as the key policy. Staff are required to knock and wait for permission to enter a resident unit unless an emergent situation is occurring. The key agreement is signed by the resident and staff.

Individuals are able to have visitors of their choosing at any time. [42 CFR § 441.301(c)(4)(vi)(D)]

Compliance within Wisconsin State Standards and Regulations

Rights: Residents have the right to private and unrestricted communications with their family, physician or other medical provider, attorney, and any other person, unless documented as medically contraindicated. The right to private and unrestricted communications includes the right to reasonable access to a telephone for private communications; and the opportunity for private visits. (WI Statewide Transition Plan; Summarized from Wis. Stat. § 50.09).

Met Unmet Not Applicable

Residents may have visitors at any time. Between 10:00 pm and 8:00 am, residents need to be aware of the noise level of guests so as not to interrupt the “quiet enjoyment of others.” The visitor policy states that common areas are available for larger groups, and dining services can provide beverages and snacks, if requested. Residents are encouraged to have overnight guests but are asked to “check with management if someone plans to stay over longer than 3 nights.”

Individuals have access to food at any time.

Compliance within Wisconsin State Standards and Regulations

The CBRF must provide each resident with palatable food that meets the recommended dietary allowance based on current guidelines, including at least three meals a day and a snack in the evening, or more often based on the resident's dietary needs. If a resident is away during meal time, the CBRF shall offer food to the resident on the resident's return. The CBRF shall make reasonable adjustments to the menu for individual resident likes, habits, customs, condition, and appetites. (Summarized from Wis. Admin. Code § DHS 83.41).

Met Unmet Not Applicable

Bornemann North and South residents are served three meals per day and snacks. Residents also have a microwave and refrigerator in their unit if they wish.

The living unit is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services:

- The individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the applicable landlord/tenant laws.
- The State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law. [42 CFR § 441.301(c)(4)(vi)(A)]

Compliance within Wisconsin State Standards and Regulations

"Each resident shall have a written agreement that is signed by and provided to each party. The agreement includes a description of the space to be provided to the resident, the agreed upon rate, a statement of the resident's rights and the terms of termination, including timeframes. The agreement is updated annually." ([WI Statewide Transition Plan](#), pg. 77; [Wis. Admin. Code § DHS 83.29](#)).

The agreement must include terms for resident notification to the CBRF of voluntary discharge, and reasons and notice requirements for involuntary discharge or transfer, including transfers within the CBRF. (Summarized from [Wis. Admin. Code § DHS 83.31](#)).

Met Unmet Not Applicable

The Bornemann North and South admission agreements meets the requirements of Wis. Admin. Code § DHS 83.31 and Wis. Admin. Code § DHS 83.29. Discharge or termination by either Bornemann or the resident are both addressed in the *Admission Agreement* and require a 30-day notice.

Overcoming Institutional Presumption

The setting demonstrated a meaningful physical distinction between the HCBS setting and the institutional setting, including separate entrances and signage, physical divisions, and differences in décor.

Met Unmet Not Applicable

Bornemann North and South have separate signage from other campus settings and separate entrances. Most common areas in the CBRFs are carpeted and not institutional in appearance as with the SNF. The CBRF dining area has a fireplace. Resident rooms have personal furniture, while the SNF rooms are similar to hospital or institutional décor.

Each individual has privacy in their sleeping or living unit.

Compliance within Wisconsin State Standards and Regulations

Residents must be provided with "physical and emotional privacy in treatment, living arrangements, and in caring for personal needs" including, privacy for visits by spouse or domestic partner, or to share a room with a spouse or domestic partner if both are residents for the same facility; privacy concerning health care; confidentiality of health and personal records; and the right to approve or refuse their release to any individual outside the facility. (Statewide Transition Plan; Summarized from Wis. Stat. § 50.09).

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance surveyors that the setting (DQA, [F-02138](#), HCBS Compliance Review):

- Provides lockable key entry doors on all resident rooms, and individual keys to all residents.
- Has a policy ensuring that staff uses facility keys to enter a resident's room only under circumstances agreed upon with the resident.

Met Unmet Not Applicable

Living units at Bornemann North and South are private with a lock on each living unit door. The key policy requires that staff knock and wait for permission to enter unless an emergent situation is occurring. Staff are trained on resident rights and privacy.

Individual living units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.

Compliance within Wisconsin State Standards

Locks on living unit doors allow the resident to exercise his or her right to privacy and personal choice. Staff in each residential setting should always knock and receive permission prior to entering a resident's living space. DHS expects the residential setting to have a policy in place to ensure that staff always knock and receive permission prior to entering a resident's room or personal living space to respect residents' rights to privacy. Please refer to DHS' [Frequently Asked Questions \(FAQs\) about Door Locks in Adult Long-Term Care Residential Settings](#) for additional lock-related information.

Met Unmet Not Applicable

Living units at Bornemann North and South are private with a lock on each door. The key policy requires that staff knock and wait for permission to enter unless an emergent situation is occurring. Staff have a master key to use if there is an emergency.

Individuals sharing units have a choice of roommates in that setting.

Compliance within Wisconsin State Standards and Regulations

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance surveyors that residents have choice of roommates (DQA, [F-02138](#), HCBS Compliance Review):

Person-Centered Planning: Family Care Provider Network, I. Access to Providers: "For residential care facilities, evidence of adequate capacity shall include identification of the availability of residential providers offering private rooms, and a process for moving an individual to a private room when one becomes available that is consistent with the member's preferences." ([DHS-MCO Contract, Article VIII, I\(6\)d](#))

Met Unmet Not Applicable

All 20 units at Bornemann CBRF South are single units.

Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement. [42 CFR § 441.301(c)(4)(vi)(B)(1-3)]

Compliance within State Standards

Met Unmet Not Applicable

Bornemann North and South residents may have their own personal furniture in their units and may decorate as they wish. They are encouraged to have personal possessions insured.

The setting is physically accessible to the individual. [42 CFR § 441.301(c)(4)(vi)(E)]

Compliance within State Standards

Met Unmet Not Applicable

The Bornemann CBRFs are physically accessible.

Operational Distinction

The setting demonstrated meaningful operational distinction between the institution and the community-based setting, such as minimal administrative and financial interconnectedness.

Met Unmet Not Applicable

Bornemann South and North share an executive director, CBRF manager, and staff separate from the SNF. A sample financial report shows that the assisted living facilities' income and expenses are separate from the SNF. There are separate operating companies for the SNF and for each of the CBRFs.

There is a distinction between staff for the HCBS setting and the institutional setting. Staff working in the HCBS setting receive initial and ongoing training on HCBS settings rule requirements and principles, and person-centered planning.

Met Unmet Not Applicable

Care staff who work in the CBRF are trained under the state-regulated CBRF requirements and are not shared with the SNF. CBRF North and South staff are trained in CBRF policies, procedures and philosophy. "Job duty training" includes assessment of residents and ISP development. Policies discussed in training modules include resident rights, elder abuse, incident reports, and the resident grievance process.

DHS Recommendation

Wisconsin can attest that Bornemann CBRF South and Bornemann CBRF North are home and community-based settings. Neither is isolating in nature, and both have overcome their initial institutional presumptions.

Please note that these findings are preliminary only and must receive final approval from CMS.

In accordance with federal requirements, all compliance results will be made public by DHS. The decision will appear on the subsequent upload of facility information to DHS websites, including the [DQA Provider Search webpage](#) and the provider directories available at the [Consumer Guide to Health Care – Finding and Choosing an Assisted Living Facility webpage](#).

Ongoing Compliance

Wisconsin's Division of Quality Assurance (DQA) will ensure through ongoing compliance reviews that Bornemann CBRF South and Bornemann CBRF North continues to meet the requirements of the HCBS Settings Rule. The DMS Bureau of Assisted Living (BAL) has incorporated the HCBS settings rule into its current assisted living survey process and activities. ([DQA Implementation of Home and Community-Based Services Settings Rule in Residential Assisted Living Facilities](#))

Waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are certified by the Wisconsin Department of Health Services (DHS) and work within the requirements of contracts with DHS. State licensed settings are subject to unannounced licensing visits, both in response to complaints and during regular oversight visits, by the state licensing authority, or by the entity that certified the provider if not regulated by the state. As part of these periodic licensing or certification reviews, the credentialing entity will also review the setting for continued HCBS compliance. Providers will be required to address any HCBS rule deficiencies.

When HCBS participants are resident in the setting, waiver program care managers are required to have ongoing contact, including face-to-face visits, at which time any areas of concern would be identified and addressed. Each participant in a Medicaid home and community-based waiver program is further protected through the state's long-term care ombudsman program, which has regular access to the assisted living setting. [Wisconsin's Board on Aging & Long Term Care](#): The Board on Aging and Long Term Care advocates for the interests of Wisconsin's long-term care consumers, informs those consumers of their rights and educates the public about health care systems and long-term care. The Board also operates the [Long Term Care Ombudsman](#), and [Volunteer Ombudsman](#) services.

EVIDENTIARY ASSESSMENT AND SUMMARY
Home and Community-Based Services (HCBS) Settings Rule
Heightened Scrutiny Review – Community-Based Residential Facility (CBRF)

Facility Name Chai Point Assisted Living		Facility Type Community-Based Residential Facility (CBRF)	
Corporate Name (if applicable) Ovation Communities		License/Certification # 310190	County Milwaukee
Facility Address 1400 North Prospect Avenue	City Milwaukee	State WI	Zip Code 53202
Primary Contact Name: Trish Cohn	Primary Contact Direct Phone (incl. area code) 414-721-9251	Primary Contact Email Address:: tcohn@ovation.org	
Facility Website Address https://ovation.org/communities/ovation-chai-point			

Reason for Institutional Presumption

- Settings in a publicly or privately operated facility that provides inpatient institutional treatment. Name of institution: [Chai Point Assisted Living](#)
- Settings in a building on the grounds of, or adjacent to, a public institution. Name of institution:
- Settings with the effect of isolating individuals from the broader community of individuals not receiving HCBS waiver services.

Wisconsin State Standards and Regulations:

The Centers for Medicare and Medicaid Services' (CMS) HCBS settings rule assumes that certain settings are not home and community-based. If a Wisconsin assisted living facility (setting) meets one of the criteria for institutional presumption as defined above, the DHS Division of Medicaid Services (DMS) conducts a heightened scrutiny review.

DMS believes that [Chai Point Assisted Living](#) has overcome the institutional presumption and meets the criteria of a home and community-based services setting as summarized below.

To reinforce the extent to which Wisconsin's licensing and certification regulations and standards align with and reinforce the HCBS settings rule, the applicable state standard or regulation is included, where applicable, with the compliance review summary below.

Facility Summary:

Ovation Chai Point (hereafter, Chai Point) offers gracious living for independent and assisted living residents in an elegant high-rise building overlooking Lake Michigan, at the center of one of Milwaukee’s vibrant city neighborhoods. Chai Point is part of the Ovation Communities campus, which also includes short-term rehabilitation services, skilled nursing, and a residential apartment complex. The Ovation campus offers private rooms and resident apartments as well as a variety of services specifically designed to meet the needs of the residents. Chai Point has a capacity of 38 studio, one- and two-bedroom apartments. As of October 2020, utilization was at 100%, with 17 out of 38 residents utilizing Family Care home and community-based services.

The setting is integrated in and supports full access to the greater community [42 CFR § 441.301(c) (4) (I)].

The community considers the setting a part of their community and does not associate the setting with institutional services.

Met Unmet Not Applicable

- Chai Point maintains a board of directors, which draws its membership from the greater Milwaukee community. In addition to the organizational structure, an active Volunteer Council plans activities and outreach support to the residents and families at Chai Point Assisted Living.
- Reviewed the “Guide Book for Ovation Chai”- a resident handbook that centers on resident life in the setting. The handbook reflects opportunities for the residents to access the community, such as recreational resources, activity calendars, transportation resources, visitor policies as well as “in-house activities.
- Chai Point offers opportunities for residents to stay engaged in their community. Through its person-centered planning process, each resident has an active plan that incorporates their interests, involvement in their communities, volunteer opportunities, outings and activities.
- Chai Point is an integral component of a campus that offers the greater Milwaukee community access to dining cafes, health club resources and wellness programs. The Ovation campus offers an occupational therapy program that is open to the greater Milwaukee community by appointment.
- Testimonials and letters of support from community volunteers and local businesses illustrate that Chai Point and the Ovation campus are not seen as institutional settings. A sampling of four (4) person-centered plans demonstrate that the resident participates regularly in typical community life activities outside of the setting to the extent that the individual desires. In the case of one resident, she continues to volunteer and attend activities at the local senior center in the Milwaukee neighborhood where she lived for many years.

Individuals, to the extent they desire, have opportunities to participate in typical community life activities outside of the setting.

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning: The plan must be based on an assessment that addresses the person’s “capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known” and “social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs.” (Summarized from [Wis. Admin. Code § DHS 83.35](#))

Program Services: Community activities. The CBRF shall provide information and assistance to facilitate participation in personal and community activities. The CBRF shall develop, update and make available to all residents, monthly schedules and notices of community activities, including costs. ([Wis. Admin. Code § DHS 83.38\(1\)\(d\)](#))

Family and social contacts: The CBRF shall encourage and assist residents in maintaining family and social contacts. (Wis. Admin. Code § DHS 83.38(1)(e))

Met Unmet Not Applicable

- Person-centered planning for the residents at Chai Point encourages involvement, where possible, with the family members of every resident. Residents are free to come and go to attend outings in the community; vacation opportunities with family, dining out with friends and family. Resident’s families and friends are encouraged to participate in Chai Point activities both in-house and in the greater community.
- “Chai Happenings” is an active activities calendar that publishes a daily list of events, such as bingo, cards, sewing club.
- “Chai Milwaukee Goings On” is a monthly calendar that highlights events in the community and information on how to participate: art museum trips, new exhibits, dining out, and special events.
- Chai Point Assisted Living provides a wide variety of options for transportation, including two (2) facility vans for residents to attend events, visit friends and family, dine out, etc.
- A review of five (5) person-centered plans indicate that each resident has control over their own schedules, and that participation in community activities, outings, etc. are consistent with the preferences and interests expressed in their individual plans. Examples include Attending Shul services on Friday evening; one resident still volunteers at the Senior Center in Milwaukee.
- Interviews with four (4) residents were conducted during the onsite review of this facility. Each resident responded that the setting supports their access to the greater Milwaukee community and that a concerted effort was made by the facility to work with each resident with transportation, etc. Residents were assured that their comments would be confidential and would not be shared with the setting’s management.

Activities are individualized or include more than just setting-based group activities

Met Unmet Not Applicable

Based on the individual interviews with residents, discussions with staff and volunteers, there is sufficient evidence to support that Chai Point Assisted Living offers a comprehensive activity and resource community program both internal and external to each resident and that the planning and availability of activities and opportunities are individually supported for each resident. Each of the interviewees person centered plans supported additional confirmation of choice in activities and involvement. Of particular note was the interview with the recreational therapist at Chai Point verifying her involvement in person centered planning of each resident’s preferences for activities, etc.

The setting supports access to community activities through its own transportation or coordination of transportation options.

Met Unmet Not Applicable

A review of the *Resident Handbook* at Chai Point indicates that the setting has two vans available for group activities in the community, as well as access to public transportation through Milwaukee transit services. Staff provide training and support for residents seeking transportation and guidance. Individual residents have access to the broader community that supports preferences and desires outlined in their person-centered plans. During the onsite resident interviews, one resident shared that she attends Friday night Shul services at her synagogue and takes either public transportation or taxi service to the service.

Individuals, if they choose, have opportunities to seek employment and work in competitive integrated settings.

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning:

The plan must be based on an assessment that addresses the person’s “capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known” and “social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs.” ([WI Statewide Transition Plan](#); Summarized from [Wis. Admin. Code § DHS 83.35](#))

From contract between DHS and specific MCOs:

V. Care Management:

C. Assessment and Member-Centered Planning Process

C.1. Comprehensive Assessment

C.1.(c) Documentation: The comprehensive assessment will include documentation by the IDT staff of:

C.1.(c)(viii) An exploration with the member of the member's preferences and opportunities for community integration including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community.

C.3. Member-Centered Planning

C.3.(c)(iv)(g) The setting in which the member resides supports integration into 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.

VII. Services

A. General Provisions

1. Comprehensive Service Delivery System

c. Serve to maintain community connections, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, and that are cost effective.

Addendum I

It is the DHS's "expectation under this contract that benefits will be fully integrated and will afford options that foster opportunities for interaction and integration into 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 while supporting each member's individual outcomes and recognizing each member's preferences."

Met Unmet Not Applicable

Residents at Chai Point enjoy benefits that afford options for interaction and access to the greater Milwaukee community. During the initial intake assessment, a new resident receives a "Community resource manual" that outlines volunteer opportunities and access to those opportunities. Additionally, the *Resident Rights* policy states, "As a resident, you have the right to participate in religious, social and community activities."

Individuals are able to control their personal resources.

Compliance within Wisconsin State Standards and Regulations

Every resident in a community-based residential facility has the right to "manage the resident's own financial affairs, unless the resident delegates, in writing, such responsibility to the facility and the facility accepts the responsibility or unless the resident delegates to someone else of the resident's choosing and that person accepts the responsibility." (Statewide Transition Plan; [Wis. Stat. § 50.09](#))

Met Unmet Not Applicable

As confirmed in the *Resident Handbook* and through resident interviews, each resident at Chai Point has the right to manage his or her personal resources unless delegated by the resident to someone of their choosing. Residents can choose their own bank, or choose to work with the facility in setting up an account at a small banking branch maintained at the Chai Point facility. The *Resident Handbook* also outlines that each resident has a choice in selecting non-residential services, including medical and social service providers.

Choice, Independence, and Person-Centered Planning

The setting is selected by the individual from among setting options including non-disability specific settings. [42 CFR § 441.301(c)(4)(ii)]

Compliance within Wisconsin State Standards and Regulations

Wisconsin has protections in place for Medicaid waiver participants which ensure they understand their choices. DHS waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are responsible for discussing choice of service settings with the waiver participant and family/guardian to locate the most suitable provider setting, including a discussion of living in a non-disability specific setting. In practice, the waiver agencies are complying with this requirement, and documenting and monitoring the choice of settings in the member-centered plan or IRIS support and service plan, as applicable.

In Wisconsin, the choice of setting requirement is not the initial responsibility of the provider setting. Rather the choice of setting takes place through the person-centered planning process at the waiver agency level. Waiver agencies are certified by DHS and work within the requirements of contracts with DHS. Through ongoing monitoring, Wisconsin will ensure that individuals maintain the right to choose where they reside.

Additionally, Wisconsin has protections in place through *Pre-Admission Consultation (PAC)*: <https://www.dhs.wisconsin.gov/adrc/pros/pac.htm>

“Pre-admission consultation is a service provided by Aging and Disability Resource Centers (ADRCs) to individuals who are in the process of considering or making a decision about the need to move out of his or her home in order to receive the help they need to remain independent and safe. Sometimes people are unaware that there are services and supports that can be provided right in their own home, often making a move unnecessary. Those who want to move into a nursing home or assisted living facility (such as a community based residential facility or residential care apartment complex), can find it difficult to know which facility would be the best for them or a loved one.”

Met Unmet Not Applicable

- A review of person-centered plans confirm that this setting, Chai Point, was selected from a choice of a variety of setting options, including non-disability specific settings. Additionally, documentation of annual review of choice of settings indicate that this setting continues to be the setting of choice for the individual.
- The Ovation Chai Point facility brochure prompts potential residents to consider “four things to consider when choosing a senior living community.”
- Copies of signature pages of five (5) person-centered support plans confirm choice in settings as well as confirmation of discussions during annual reviews that confirm that this setting continues to be the setting of choice. Additionally, resident interviews conducted during the onsite review included a question regarding choice of settings and each resident interview confirmed that the resident was actively involved in yearly planning and was able to exercise preference for setting.

The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and resources available for room and board. [42 CFR § 441.301(c)(4)(ii)]

Compliance within Wisconsin State Standards and Regulations

“COMPREHENSIVE INDIVIDUAL SERVICE PLAN Individual service plan review. Annually or when there is a change in a resident's needs, abilities or physical or mental condition, the individual service plan shall be reviewed and revised based on the assessment under sub. (1). All reviews of the individual service plan shall include input from the resident or legal representative, case manager, resident care staff, and other service providers as appropriate.” ([Wis. Admin. Code § DHS 83.35 \(1\)\(d\)](#))

Met Unmet Not Applicable

- The Resident Handbook makes clear that Chai Point, “...offers each individual the freedom to live as active lifestyle that they desire.” Compliance within the provider-submitted documentation confirms that within the Chai Point senior community, each individual can enjoy in-house services, meals and complimentary services, dining options, and a robust activity program planned for in-house and community opportunities.

- Person-centered planning supports that the setting is the individual’s home and should be thought of and supported with a focus on individuality, privacy, needs, likes and preferences.
- Dining options, which include a café, sandwich shop, and dining room, observed during the onsite review. Interviews conducted with the residents indicate that residents have a variety of choices for dining and access to food options at any time.

The setting facilitates choice regarding services and supports, and who provides them. Individuals have a choice in selecting their service providers, and are not reliant on services from the institution to the exclusion of other community-based options. Individuals can choose to receive services in the community to the same degree as individuals not receiving Medicaid HCBS. [42 CFR § 441.301(c)(4)(v)].

Compliance within Wisconsin State Standards and Regulations

Before or at the time of admission, the CBRF shall provide written information regarding services available and the charges for those services to each resident or the resident’s legal representative. This information shall include any charges for services not covered by the daily or monthly rate...” (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.29](#))

Person-Centered Planning:

- “Options of services, providers, and settings, including non-disability specific settings, are offered to participants in all Wisconsin HCBS programs.” (WI Statewide Transition Plan; Summarized from Wis. HCBS waivers, waiver-specific contracts, and policy documents.)
- Residents have the right to “use the licensed, certified or registered provider of health care and pharmacist of the resident’s choice.” ([Wis. Stat. § 50.09](#))

Met Unmet Not Applicable

- Review of the Chai Point resident agreement, *Selection of Physician and other health care and service options* (Page 3 E) indicates that the resident has the right to choose any licensed, certified or registered health care professional. There are healthcare and medical providers at the Ovation Campus that the resident can choose but if they utilize outside services, Chai Point Assisted Living makes transportation available for those appointments.
- The *Resident Handbook* also cites that residents may “need to contract with third party (healthcare and professional) services in order to maintain each residents’ highest quality of life and degree of independence.”
- Additionally, the CBRF will allow for residents to contract with home health and other third-party service providers that support and maintain their residences.

The setting optimizes, but does 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 [42 CFR § 441.301(c)(4)(iv)]

Compliance within Wisconsin State Standards and Regulations

Rights: Licensees must protect the civil rights of residents. Residents have the right to make decision relating to care, activities, daily routines, and other aspects of life that enhance the resident’s self-reliance and support the resident’s autonomy and decision-making. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.32](#))

Person-Centered Planning: The plan must be based on an assessment that addresses the person’s capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known, and social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts, and vocational needs. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.35](#))

“The CBRF shall teach residents the necessary skills to achieve and maintain the resident’s highest level of functioning.” The CBRF shall provide or arrange services adequate to meet the needs of the residents including providing leisure time activities, facilitating participation in community activities, and encouraging and assisting residents in maintaining family and social contacts. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.38](#))

Rights: Residents have the right to make decisions relating to care, activities, daily routines, and other aspects of life that enhance the resident's self-reliance and support the resident's autonomy and decision making, and have the least restrictive conditions necessary to achieve the purposes of the resident's admission. The CBRF may not impose a curfew, rule, or other restriction on a resident's freedom of choice. (Statewide Transition Plan; Summarized from Wis. Admin. Code § DHS 83.32)

Met Unmet Not Applicable

- Review of the *Resident Handbook*, *Resident Rights Policy* and *Senior Living Policies* support the right of each resident to enjoy individual choice, autonomy and independence in making choices about their activities, décor, living arrangements and Chai Point's philosophy and approach is to "focus on the lifestyles and values of seniors and respect for individuality, independence, dignity, choice, privacy and a strong sense of well-being."
- A review of five (5) person-centered plans supported individual choice in activities, hobbies, religious observance, etc. In addition to person-centered plans, each resident has a wellness plan and an activity/recreational plan that assesses and documents interests, activities, involvement, etc.
- During the onsite review, the reviewer spoke with a group of residents and asked specific questions regarding choice, daily activities, lifestyle and involvement and the consensus was that there were so many opportunities to engage in if you choose to do so. In fact, one resident said that the choices were "overwhelming" and there is more to do on a daily basis than the resident was doing prior to residing at the facility.

Individuals have the freedom and support to control their own schedules and activities [42 CFR § 441.301(c)(4)(vi)(C)]

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning: The plan must be based on an assessment that addresses the person's "capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known" and "social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs." (Statewide Transition Plan, pg. 72; Summarized from Wis. Admin. Code § DHS 83.35)

Rights: Licensees must protect the civil rights of residents. Residents have the right to make decision relating to care, activities, daily routines, and other aspects of life that enhance the resident's self-reliance and support the resident's autonomy and decision-making. (Summarized from Wis. Admin. Code § DHS 83.32)

Met Unmet Not Applicable

- The *Resident Handbook* outlines and confirms the opportunities for each resident to have the "freedom to live as active a lifestyle as desired." To that end, Chai Point offers scheduled group outings, entertainment and activities, worship opportunities, wellness programs, etc.
- Chai Point offers a home to each resident, encourages, and supports that each resident has the right to choose when he or she eat, when they sleep, whom they visit, who visits them and what each residents chooses to engage in. Dining options are offered to allow made to order menus, snack and café options.
- Reviewer was able to meet with a recreational group of ten (10) residents during the onsite visit. One of the residents is enrolled in Senior Learning College series and takes classes both online and at a community college. Another resident hosts a monthly *Coffee Klatch* for her Milwaukee friends as well as her Chai Point friends. One resident take a Barre yoga class at the local YMCA.

The setting ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint [42 CFR § 441.301(c)(4)(iii)]

Compliance within Wisconsin State Standards and Regulations

Rights: Residents have the right to be "treated with courtesy, respect and dignity by all employees of the facility and other providers of health care and pharmacists with whom the resident comes in contact." ([Statewide Transition Plan](#), pg. 72; Summarized from [Wis. Stat. § 50.09](#))

Residents must be provided with “physical and emotional privacy in treatment, living arrangements, and in caring for personal needs” including, privacy for visits by spouse or domestic partner, or to share a room with a spouse or domestic partner if both are residents for the same facility; privacy concerning health care; confidentiality of health and personal records; and the right to approve or refuse their release to any individual outside the facility. (Statewide Transition Plan, pg. 72; Summarized from Wis. Stat. § 50.09)

“Any form of coercion to discourage or prevent a resident or the resident’s legal representative from exercising any of the rights under this subchapter is prohibited. Any form of retaliation against a resident or the resident’s legal representative for exercising any of the rights in this subchapter, or against an employee or any other person who assists a resident or the resident’s legal representative in the exercise of any of the resident rights in this subchapter, is prohibited.” (Statewide Transition Plan, pg. 72; Wis. [Admin. Code § DHS 83.32](#))

In addition, each resident shall have all of the following rights: freedom from mistreatment; freedom from seclusion; freedom from chemical restraint; and freedom from physical restraints, except upon prior review and approval by DHS upon written authorization from the resident’s primary physician or advanced practice nurse prescriber. DHS may place conditions on the use of a restraint to protect the health, safety, welfare, and rights of the resident. (Statewide Transition Plan; Summarized from Wis. Admin. Code § DHS 83.32)

Met Unmet Not Applicable

- The Chai Point *Resident Rights* policy addresses and ensures each of the requirements of 42 CFR § 441.301(c)(4)(iii)- These requirements are confirmed through staff training and updates and clearly comply with all applicable federal, state and local laws regarding abuse/neglect, etc. As part of this policy, each resident is encouraged to sign the residents’ rights protocol that ensures the facilities compliance with applicable statutes.
- New employee orientation, employee, and staff orientation checklists include sections on privacy, confidentiality, resident rights, abuse/neglect prevention, mandated reporting requirements and a Chai Point Assisted Living *Code of Ethics*.

Individuals are able to have visitors of their choosing at any time [42 CFR § 441.301(c)(4)(vi)(D)]

Compliance within Wisconsin State Standards and Regulations

Rights: Residents have the right to private and unrestricted communications with their family, physician or other medical provider, attorney, and any other person, unless documented as medically contraindicated. The right to private and unrestricted communications includes the right to... reasonable access to a telephone for private communications; and the opportunity for private visits. (WI Statewide Transition Plan; Summarized from Wis. Stat. § 50.09)

Met Unmet Not Applicable

Resident Handbook/Resident Rights Section confirms the “Right to Private and Unrestricted Communication:” Each resident has the right to private visitors and private visits as part of a reasonable visitor policy. The handbook asserts that the resident is responsible for guests that visit and that the setting will have defined guest rules.

Individuals have access to food at any time

Compliance within Wisconsin State Standards and Regulations

The CBRF must provide each resident with palatable food that meets the recommended dietary allowance based on current guidelines, including at least three meals a day and a snack in the evening, or more often based on the resident’s dietary needs. If a resident is away during meal time, the CBRF shall offer food to the resident on the resident’s return. The CBRF shall make reasonable adjustments to the menu for individual resident likes, habits, customs, condition, and appetites. (Summarized from Wis. Admin. Code § DHS 83.41)

Met Unmet Not Applicable

- Resident Handbook states “Chai Point Assisted Living is a community that is the resident’s home and should be thought of and managed as a home.” Dining and auxiliary food choices are available at Chai Point and include a dining room with guest meals, a café with 24-hour service and a snack bar with juices, bakery items, water, etc. Residents can also have meals set aside for them to access at different times from the scheduled dining room hours. Residents can have guests at any meal and can host dinners and parties for their friends and families.
- During the onsite visit, the reviewer observed an active dining first floor with a full dining area, snack foyer and coffee shop.

Individuals occupy the setting under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity [42 CFR § 441.301(c)(4)(vi)(A)]

Compliance within Wisconsin State Standards and Regulations

“Each resident shall have a written agreement that is signed by and provided to each party. The agreement includes a description of the space to be provided to the resident, the agreed upon rate, a statement of the resident’s rights and the terms of termination, including timeframes. The agreement is updated annually.” ([WI Statewide Transition Plan](#), pg. 77; [Wis. Admin. Code § DHS 83.29](#))

The agreement must include terms for resident notification to the CBRF of voluntary discharge, and reasons and notice requirements for involuntary discharge or transfer, including transfers within the CBRF. (WI Statewide Transition Plan, pg. 77; Summarized from Wis. Admin. Code § DHS 83.31)
 State licensed settings are subject to unannounced licensing visits, both in response to complaints and during regular oversight visits. Through ongoing HCBS monitoring, Wisconsin will ensure that individuals maintain the right to make such choices while residing in this state-licensed community-based residential facility. Additionally, the state’s long-term care ombudsman program has regular access to the setting.

Met Unmet Not Applicable

- Provider-submitted documents support compliance of landlord tenant laws that “Chai Point is responsible to be familiar with and comply with all requirements of applicable landlord tenant statutes for their local community.”
- At the onsite review, sample leases and admission agreements were reviewed and comply in accordance with HCBS. The occupancy agreement confirms that individuals residing at Chai Point occupy their residence under a legally enforceable occupancy agreement and that the individual enjoys the same responsibilities and protections from eviction by statute of their community.

Overcoming Institutional Presumption

The setting demonstrated a meaningful physical distinction between the HCBS setting and the institutional setting, including separate entrances and signage, physical divisions, and differences in décor.

Met Unmet Not Applicable

Documents submitted include blueprints of the CBRF, RCAC and the campus.

1. Blueprint confirms separate entrances, exits, and signage for the settings on the campus. On site review confirmed, that the CBRF is located with apartments on the first four floors and the RCAC is located on the top floors. Each floor is individualized and there are separate elevators to the CBRF and to the RCAC. The SNF is located behind the dining room on the other side of the campus.
2. Photos submitted for the resident’s rooms. Each resident lives in a studio, one bedroom-2 bedroom apartment and are free to decorate to his or her personal taste.
3. Submitted photos show an expansive lobby area with a separate hallway that leads to the CBRF/RCAC apartments and signage for Chai Point Assisted Living and Ovation living.

4. On site review visit, confirm that there is separate signage for the Ovation Jewish Home (SNF), Chai Point Assisted Living (CBRF) and Ovation (RCAC). On site visit confirms that there is a clear separation from the Jewish Home to the adult day care and lobby.

Each individual has privacy in their sleeping or living unit.

Compliance within Wisconsin State Standards and Regulations

Residents must be provided with “physical and emotional privacy in treatment, living arrangements, and in caring for personal needs” including, privacy for visits by spouse or domestic partner, or to share a room with a spouse or domestic partner if both are residents for the same facility; privacy concerning health care; confidentiality of health and personal records; and the right to approve or refuse their release to any individual outside the facility. (Statewide Transition Plan; Summarized from Wis. Stat. § 50.09)

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance surveyors that the setting (DQA, [F-02138](#), HCBS Compliance Review):

- Provides lockable key entry doors on all resident rooms, and individual keys to all residents.
- Has a policy ensuring that staff uses facility keys to enter a resident’s room only under circumstances agreed upon with the resident.

Met Unmet Not Applicable

- During the onsite visit, the reviewer observed three separate apartments and can confirm that residents have private rooms and can enjoy physical and emotional privacy. Each resident has privacy with entrance doors lockable by the individual; with only appropriate staff having, keys to doors and individual do have a choice of roommates, if applicable.
- HCBS lock and privacy policies submitted for documents review and the HCBS privacy and lock policies are part of the HCBS staff training.

Individual living units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.

Compliance within Wisconsin State Standards and Regulations

Locks on living unit doors allow the resident to exercise his or her right to privacy and personal choice. Staff in each residential setting should always knock and receive permission prior to entering a resident’s living space. DHS expects the residential setting to have a policy in place to ensure that staff always knock and receive permission prior to entering a resident’s room or personal living space to respect residents’ rights to privacy. Please refer to DHS’ [Frequently Asked Questions \(FAQs\) about Door Locks in Adult Long-Term Care Residential Settings](#) for additional lock-related information.

Met Unmet Not Applicable

- Each person at Chai Point has privacy in his/her sleeping unit including a lockable door. Tenant privacy and lock policies were submitted for document review and locks observed on all apartment doors in the CBRF setting during the onsite review.
- During the onsite review, resident interviews confirmed that their respective living units have lockable doors.
- Chai Point provided lock and privacy policies that confirmed that staff always knock and receive permission prior to entering a resident’s apartment; only the resident and the appropriate staff have keys to the living unit; and the written policy confirms that all staff receive training as part of the HCBS compliance for this protocol.

Individuals sharing units have a choice of roommates in that setting.

Compliance within Wisconsin State Standards and Regulations

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance surveyors that residents have choice of roommates (DQA, [F-02138](#), HCBS Compliance Review):

Person-Centered Planning: Family Care Provider Network, I. Access to Providers: “For residential care facilities, evidence of adequate capacity shall include identification of the availability of residential providers offering private rooms, and a process for moving an individual to a private room when one becomes available that is consistent with the member’s preferences.” ([DHS-MCO Contract, Article VIII, I\(6\)d](#))

Met Unmet Not Applicable

There are 38 living units at Chai Point, all private and either studios or one- and two-bedroom apartments. Spouses of residents who are also residents of Chai Point can live together.

Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement. [42 CFR § 441.301(c)(4)(vi)(B)(1-3)]

Compliance within Wisconsin State Standards and Regulations

Every resident in a community-based residential facility shall have the right to retain and use personal clothing and effects and to retain, as space permits, other personal possessions in a reasonably secure manner. (Summarized from Wis. Stat. § 50.09)

Met Unmet Not Applicable

- Review of the *Resident Handbook* and *Admission Agreement* confirm that each resident can furnish their living units as they so choose. Submitted photos confirmed that each living unit was distinct and furnished by each resident.
- During the onsite review, the reviewer observed that the décor of each of the apartments were distinct from the SNF units and each resident could bring personal furniture and furnishings to their living space. Each of the apartment units also have a Welcome mat and, if chosen, a ledge outside the apartment door for personal belongings, pictures, etc.

The setting is physically accessible to the individual [42 CFR § 441.301(c)(4)(vi)(E)]

Compliance within Wisconsin State Standards and Regulations

The bedroom and congregate dining and living area for any resident requiring a specified level of care and who is blind or not fully ambulatory shall be on the first floor. (Summarized from Wis. Admin. Code § DHS 83.50)

Bedrooms shall be designed and equipped to allow residents to achieve the highest level of independent functioning and shall be fully accessible to the resident. Within the bedroom, each resident shall have, or be provided with a closet or wardrobe with clothes hanging rods and shelves, and drawer space adequate to reasonably meet the needs of the resident. The bedroom shall have adequate accessible space for a resident’s wheelchair or other adaptive or prosthetic equipment. (Summarized from Wis. Admin. Code § DHS 83.54)

Met Unmet Not Applicable

The setting is physically accessible to residents.

The living unit is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services.

- The individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the applicable landlord/tenant laws.
- The State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction’s landlord tenant law [42 CFR § 441.301(c)(4)(vi)(A)].

Compliance within Wisconsin State Standards and Regulations

“Each resident shall have a written agreement that is signed by and provided to each party. The agreement includes a description of the space to be provided to the resident, the agreed upon rate, a statement of the resident’s rights and the terms of termination, including timeframes. The agreement is updated annually.” ([Wis. Admin. Code § DHS 83.29](#))

The agreement must include terms for resident notification to the CBRF of voluntary discharge, and reasons and notice requirements for involuntary discharge or transfer, including transfers within the CBRF. (Summarized from [Wis. Admin. Code § DHS 83.31](#))

Met Unmet Not Applicable

- The *Resident Handbook* clearly outlines that Chai Point is responsible to be familiar with and comply with all requirements of applicable landlord tenant statutes for their community. The *Occupancy Agreement* affirms that the setting will provide “proper written notice to the resident whenever there is a decision regarding the resident’s occupancy agreement, i.e., termination, etc.”
 - The *Service Agreement* describes rate, care levels, termination notice and procedures, tenant policies and procedures.
-

Operational Distinction

The setting demonstrated meaningful operational distinction between the institution and the community–based setting, such as minimal administrative and financial interconnectedness.

Met Unmet Not Applicable

- Documents submitted include the Financial and Business Office Department Flowchart; Chai Point Assisted Living Agreement, Organizational Charts and staffing schedules. Documents confirm that there are separate staffing levels and personnel for Chai Point Assisted Living (CBRF) from both the RCAC and the SNF.
 - At the onsite review, the state reviewer reviewed organizational charts and staffing schedules and confirmed that there is minimal interconnectedness at the management and administrative levels for the settings. Additionally, the reviewer met with the management staff at Chai Point Assisted Living and the setting maintains a separate Executive Director and Director of Administration.
-

There is a distinction between staff for the HCBS setting and the institutional setting. Staff working in the HCBS setting receive initial and ongoing training on HCBS settings rule requirements and principles, and person-centered planning.

Met Unmet Not Applicable

- Documents submitted included the Kronos Chai Point Staff Manifest and staffing schedules for the CBRF, SNF and RCAC, which clearly indicates that there is distinct staffing for each of the Ovation community’s settings.
 - Chai Point Staff Orientation and checklist include a written HCBS training curriculum that confirms the highlights of HCBS settings rule: “The tenant of Chai Point has the right to privacy and autonomy. The tenant must have a setting that is home like and residential in nature. Services are available to each resident including personal, supportive, care and nursing and are available and planned to meet the individual needs of the tenant. The tenant at Chai Point Assisted Living occupies an apartment and can expect to enjoy all levels of privacy and private living and community engagement available for each resident. A comprehensive person centered planning process and assessment is completed prior to admission and each tenant can expect that the plan will be updated regularly and formally on an annual basis.”
-

DHS Recommendation

Wisconsin can attest that [Chai Point Assisted Living](#) possesses the required home and community–based characteristics, is not isolating in nature, and overcomes the presumption of having institutional qualities.

Based on the individual interviews with residents, and discussions with staff and volunteers, there is sufficient evidence to support that Chai Point Assisted Living offers a comprehensive activity and resource community program, and that the planning, availability, and opportunities for activities are supported for each resident. Additional confirmation of choice in activities and involvement supported by each of the interviewee's person centered plans. Of particular note was the interview with the recreational therapist at Chai Point verifying her involvement in person-centered planning with each resident's preference for activities.

Please note that these findings are preliminary only and must receive final approval from CMS.

In accordance with federal requirements, all compliance results will be made public by DHS. The decision will appear on the subsequent upload of facility information to DHS websites, including the [DQA Provider Search webpage](#) and the provider directories available at the [Consumer Guide to Health Care – Finding and Choosing an Assisted Living Facility webpage](#).

Ongoing Compliance

Wisconsin's Division of Quality Assurance (DQA) will ensure through ongoing compliance reviews that *Chai Point Assisted Living* continues to meet the requirements of the HCBS Settings Rule. The DMS Bureau of Assisted Living (BAL) has incorporated the HCBS settings rule into its current assisted living survey process and activities. ([DQA Implementation of Home and Community-Based Services Settings Rule in Residential Assisted Living Facilities](#))

Waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are certified by the Wisconsin Department of Health Services (DHS) and work within the requirements of contracts with DHS. State licensed settings are subject to unannounced licensing visits, both in response to complaints and during regular oversight visits, by the state licensing authority, or by the entity that certified the provider if not regulated by the state. As part of these periodic licensing or certification reviews, the credentialing entity will also review the setting for continued HCBS compliance. Providers will be required to address any HCBS rule deficiencies.

When HCBS participants are resident in the setting, waiver program care managers are required to have ongoing contact, including face-to-face visits, at which time any areas of concern would be identified and addressed. Each participant in a Medicaid home and community-based waiver program is further protected through the state's long-term care ombudsman program, which has regular access to the assisted living setting. [Wisconsin's Board on Aging & Long Term Care](#): The Board on Aging and Long Term Care advocates for the interests of Wisconsin's long-term care consumers, informs those consumers of their rights and educates the public about health care systems and long-term care. The Board also operates the [Long Term Care Ombudsman](#), and [Volunteer Ombudsman](#) services.

EVIDENTIARY ASSESSMENT AND SUMMARY
Home and Community-Based Services (HCBS) Settings Rule
Heightened Scrutiny Review – Community-Based Residential Facility (CBRF)

Facility Name Hearthside Assisted Living		Facility Type Community-Based Residential Facility (CBRF)	
Corporate Name (if applicable) Christian Community Home of Osceola Inc.		License/Certification # 0013865	County Polk
Facility Address 2650 65 th Ave	City Osceola	State WI	Zip Code 54020
Primary Contact Name: Heidi McGeehan	Primary Contact Direct Phone (incl. area code) 715-294-1119	Primary Contact Email Address:: Heidi.mcgeehan@cchosceola.org	
Facility Website Address https://cch-osceola.org/facility-details-hearthside/			

Reason for Institutional Presumption

- Settings in a publicly or privately operated facility that provides inpatient institutional treatment. Name of institution: [Christian Community Home of Osceola Skilled Nursing Facility](#)
- Settings in a building on the grounds of, or adjacent to, a public institution. Name of institution:
- Settings with the effect of isolating individuals from the broader community of individuals not receiving HCBS waiver services.

The Centers for Medicare and Medicaid Services’ (CMS) HCBS settings rule assumes that certain settings are not home and community-based. If a Wisconsin assisted living facility (setting) meets one of the criteria for institutional presumption as defined above, the DHS Division of Medicaid Services (DMS) conducts a heightened scrutiny review.

DMS believes that [Hearthside](#) has overcome the institutional presumption and meets the criteria of a home and community-based services setting as summarized below.

To reinforce the extent to which Wisconsin’s licensing and certification regulations and standards align with and reinforce the HCBS settings rule, the relevant state standard or regulation is included, where applicable, with the compliance review summary below.

Facility Summary

The Osceola campus of Christian Community Homes and Services (CCHS) opened its doors in November of 2011 after CCHS and the Osceola Medical Center (OMC) formed a partnership to continue senior care in the community. The local nursing home in Osceola was closing its doors and leaving behind a 40-bed nursing home license. This, along with a 20-acre donation from OMC and the generosity of the community, the Christian Community Home of Osceola – Hearthside Assisted Living (hereafter, Hearthside) campus came to be. Today, the Osceola campus offers 24-hour skilled nursing, short-term rehabilitation, outpatient therapy and assisted living. Hearthside is a 20-bed community-based setting for seniors requiring various levels of assistance with activities of daily living. The campus also offers outpatient therapy services which can be utilized by residents in Hearthside and others in the community.

Osceola is a village in Polk County, Wisconsin, separated by the St. Croix River on the border of Minnesota. Osceola, with a population of about 2,500, originally settled in 1844 and is located on the St. Croix National Scenic Riverway. A collection of buildings dating from the 1880's forms the core of downtown and contributes to Osceola's small town charm. Located less than 40 miles northeast of the major metropolitan area of Minneapolis and St. Paul, the Village of Osceola enjoys an unspoiled balance of recreation, tourism, business, and industry.

The setting is integrated in and supports full access to the greater community [42 CFR § 441.301(c)(4)(i)].

The community considers the setting a part of their community and does not associate the setting with institutional services.

Met Unmet Not Applicable

The community has been part of the Osceola campus of Christian Community Homes and Services from the very beginning. The board of directors consists of representatives from several churches in the Hudson and Osceola areas. A strong volunteer program links residents with the community, providing activities both off campus and onsite. Family and friends are encouraged to visit with residents offsite, enjoying shopping and restaurant trips, family events, and community celebrations. The CBRF is distinctly separate from the SNF in both décor and activity. Two attestations describe that residents feel this setting is “home,” and that they can continue daily life with friends, family and community. Community residents are welcome to choose outpatient therapy services located in the facility.

Individuals, to the extent they desire, have opportunities to participate in typical community life activities outside of the setting.

Compliance within Wisconsin State Standards and Regulations:

Person-Centered Planning: The plan must be based on an assessment that addresses the person’s “capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known” and “social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs.” (Summarized from [Wis. Admin. Code § DHS 83.35](#))

Program Services: Community activities. The CBRF shall provide information and assistance to facilitate participation in personal and community activities. The CBRF shall develop, update and make available to all residents, monthly schedules and notices of community activities, including costs. ([Wis. Admin. Code § DHS 83.38\(1\)\(d\)](#))

Family and social contacts: The CBRF shall encourage and assist residents in maintaining family and social contacts. (Wis. Admin. Code § DHS 83.38(1)(e))

Met Unmet Not Applicable

- Residents can come and go as they wish, though notice is requested for medical appointments so that medications and other health-related information can be provided.

- *Resident Rights, Section 4*, addresses resident autonomy, receive care, and choice about how they prefer to live their everyday lives to the maximum extent possible.
- Residents tend to their raised gardens, and go for rides on the Trishaw bike.
- Typical community activities include community fairs and picnics, baseball games, dining out, going for ice cream, and fishing from an accessible boat.
- Family and friends are encouraged to take residents off campus for activities such as shopping, family events and visits, or to participate in onsite activities with residents, if they wish.
- Community groups are invited and welcomed to come onsite for entertainment, baking and crafting, or special presentations like a local wildlife rescue visit.

Activities are individualized or include more than just setting-based group activities

Met Unmet Not Applicable

Hearthside residents have a choice to participate in activities onsite and off-site as they wish. Social history and preferences are discussed in regularly scheduled Individualized Support Plan (ISP) reviews. Specific sections of the ISP such as “Recreational Needs” and “Community Involvement” includes discussion of the resident’s “desire to be involved in facility-sponsored outings . . . community events with family/friends.”

The setting supports access to community activities through its own transportation or coordination of transportation options.

Met Unmet Not Applicable

Hearthside staff coordinate transportation for medical appointments as needed and arranges transportation for facility sponsored events. The ADRC also assists with obtaining transportation. The facility uses a 12-passenger, wheelchair accessible van used for many outings such as trips to Osceola’s Wings and Wheels, the Polk County Fair, fishing, Wal-Mart, The Pizzeria, and other community destinations and events.

Individuals, if they choose, have opportunities to seek employment and work in competitive integrated settings.

Compliance within Wisconsin State Standards and Regulations:

Person-Centered Planning:

The plan must be based on an assessment that addresses the person’s “capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known” and “social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs.” ([WI Statewide Transition Plan](#); Summarized from [Wis. Admin. Code § DHS 83.35](#))

From contract between DHS and specific MCOs:

V. Care Management:

C. Assessment and Member-Centered Planning Process

C.1. Comprehensive Assessment

C.1.(c) Documentation: The comprehensive assessment will include documentation by the IDT staff of:

C.1.(c)(viii) An exploration with the member of the member’s preferences and opportunities for community integration including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community.

C.3. Member-Centered Planning

C.3.(c)(iv)(g) The setting in which the member resides supports integration into 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.

VII. Services

A. General Provisions

1. Comprehensive Service Delivery System

- c. Serve to maintain community connections, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, and that are cost effective.

Addendum I

It is the DHS's "expectation under this contract that benefits will be fully integrated and will afford options that foster opportunities for interaction and integration into 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 while supporting each member's individual outcomes and recognizing each member's preferences."

Met Unmet Not Applicable

Hearthside residents choose their schedules and activities, and are employed or volunteer in the community as they wish.

Individuals are able to control their personal resources.

Compliance within Wisconsin State Standards and Regulations:

Every resident in a community-based residential facility has the right to "manage the resident's own financial affairs, unless the resident delegates, in writing, such responsibility to the facility and the facility accepts the responsibility or unless the resident delegates to someone else of the resident's choosing and that person accepts the responsibility." (Statewide Transition Plan; [Wis. Stat. § 50.09](#))

Met Unmet Not Applicable

- All living units at Hearthside have locks, and residents have a key to their living space.
- Residents are encouraged not to keep large amounts of money in their possession or unit. They may have anyone they choose hold personal resources for them, or they may open an account held by the office.
- Since residents come and go as they wish, they have bank accounts and use ATMs or banking services as they choose.

Choice, Independence, and Person-Centered Planning

The setting is selected by the individual from among setting options including non-disability specific settings. [42 CFR § 441.301(c)(4)(ii)]

Compliance within Wisconsin State Standards and Regulations:

Wisconsin has protections in place for Medicaid waiver participants which ensure they understand their choices. DHS waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are responsible for discussing choice of service settings with the waiver participant and family/guardian to locate the most suitable provider setting, including a discussion of living in a non-disability specific setting. In practice, the waiver agencies are complying with this requirement, and documenting and monitoring the choice of settings in the member-centered plan or IRIS support and service plan, as applicable.

In Wisconsin, the choice of setting requirement is not the initial responsibility of the provider setting. Rather the choice of setting takes place through the person-centered planning process at the waiver agency level. Waiver agencies are certified by DHS and work within the requirements of contracts with DHS. Through ongoing monitoring, Wisconsin will ensure that individuals maintain the right to choose where they reside.

Additionally, Wisconsin has protections in place through *Pre-Admission Consultation (PAC)*: <https://www.dhs.wisconsin.gov/adrc/pros/pac.htm>

“Pre-admission consultation is a service provided by Aging and Disability Resource Centers (ADRCs) to individuals who are in the process of considering or making a decision about the need to move out of his or her home in order to receive the help they need to remain independent and safe. Sometimes people are unaware that there are services and supports that can be provided right in their own home, often making a move unnecessary. Those who want to move into a nursing home or assisted living facility (such as a community based residential facility or residential care apartment complex), can find it difficult to know which facility would be the best for them or a loved one.”

Met Unmet Not Applicable

- The *Resident Services Agreement* specifies services and fees, and is agreed to and signed by the resident, including that this is their setting of choice.
- The resident participates in regularly scheduled assessments, signing the updated assessment summary. The assessment helps confirm and determine any changes to the services provided to the resident.

The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and resources available for room and board. [42 CFR § 441.301(c)(4)(ii)]

Compliance within Wisconsin State Standards and Regulations:

“COMPREHENSIVE INDIVIDUAL SERVICE PLAN Individual service plan review. Annually or when there is a change in a resident's needs, abilities or physical or mental condition, the individual service plan shall be reviewed and revised based on the assessment under sub. (1). All reviews of the individual service plan shall include input from the resident or legal representative, case manager, resident care staff, and other service providers as appropriate.” ([Wis. Admin. Code § DHS 83.35 \(1\)\(d\)](#))

Met Unmet Not Applicable

- Assessments are scheduled by the facility on a regular basis, i.e., every six months, annually, as needed and desired, or when there is a change in condition.
- Residents choose who they would like involved in the assessment.
- The *Resident Services Agreement*, which specifies services and fees, is signed by the resident, including that this is their setting of choice.
- The ISP at Hearthside – Hearthside includes discussion and evaluation of not only ADLs and IADL’s, but also community involvement, spiritual and recreational needs, mobility and use of adaptive devices, medical and medication needs, and capacity for self-care and independence in daily activities.

The setting facilitates choice regarding services and supports, and who provides them. Individuals have a choice in selecting their service providers, and are not reliant on services from the institution to the exclusion of other community-based options. Individuals can choose to receive services in the community to the same degree as individuals not receiving Medicaid HCBS. [42 CFR § 441.301(c)(4)(v)].

Compliance within State Standards:

Before or at the time of admission, the CBRF shall provide written information regarding services available and the charges for those services to each resident or the resident’s legal representative. This information shall include any charges for services not covered by the daily or monthly rate...” (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.29](#))

Person-Centered Planning:

- “Options of services, providers, and settings, including non-disability specific settings, are offered to participants in all Wisconsin HCBS programs.” (WI Statewide Transition Plan; Summarized from Wis. HCBS waivers, waiver-specific contracts, and policy documents.)
- Residents have the right to “use the licensed, certified or registered provider of health care and pharmacist of the resident’s choice.” ([Wis. Stat. § 50.09](#))

Met Unmet Not Applicable

- The *Resident Services Agreement, Section 11(i)* provides the procedure for outside providers coming into the facility to provide services to a resident(s). Service providers must be approved by the CBRF, which is a customary requirement to ensure the safety of residents.
- Each resident may choose to obtain medical and other service providers wherever they wish. A medical director and therapy programs are available if those services are desired onsite.
- Though the CBRF is indirectly attached to the Osceola Medical Center, there is no affiliation with the CBRF.

The setting optimizes, but does 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. [42 CFR § 441.301(c)(4)(iv)]

Compliance within Wisconsin State Standards and Regulations:

Rights: Licensees must protect the civil rights of residents. Residents have the right to make decision relating to care, activities, daily routines, and other aspects of life that enhance the resident's self-reliance and support the resident's autonomy and decision-making. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.32](#))

Person-Centered Planning: The plan must be based on an assessment that addresses the person's capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known, and social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts, and vocational needs. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.35](#))

"The CBRF shall teach residents the necessary skills to achieve and maintain the resident's highest level of functioning." The CBRF shall provide or arrange services adequate to meet the needs of the residents including providing leisure time activities, facilitating participation in community activities, and encouraging and assisting residents in maintaining family and social contacts. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.38](#))

Rights: Residents have the right to make decisions relating to care, activities, daily routines, and other aspects of life that enhance the resident's self-reliance and support the resident's autonomy and decision making, and have the least restrictive conditions necessary to achieve the purposes of the resident's admission. The CBRF may not impose a curfew, rule, or other restriction on a resident's freedom of choice. (Statewide Transition Plan; Summarized from Wis. Admin. Code § DHS 83.32)

Met Unmet Not Applicable

- *Resident Rights Policy, Section 4*, addresses resident autonomy, receive care, and choice about how they prefer to live their everyday lives to the maximum extent possible.
- ISPs are reviewed and updated with the resident on a regular schedule, whenever the resident requests, or if there is a change in condition.

Individuals have the freedom and support to control their own schedules and activities. [42 CFR § 441.301(c)(4)(vi)(C)]

Compliance within Wisconsin State Standards and Regulations:

Person-Centered Planning: The plan must be based on an assessment that addresses the person's "capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known" and "social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs." (Statewide Transition Plan, pg. 72; Summarized from Wis. Admin. Code § DHS 83.35)

Rights: Licensees must protect the civil rights of residents. Residents have the right to make decision relating to care, activities, daily routines, and other aspects of life that enhance the resident's self-reliance and support the resident's autonomy and decision-making. (Summarized from Wis. Admin. Code § DHS 83.32)

Met Unmet Not Applicable

Residents have choice over their daily activities and schedules. They choose when to go to bed and rise, if they wish to participate in meals, and who they wish to associate with. They have visitors of their choosing and can leave the campus whenever they wish.

The setting ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint, [42 CFR § 441.301(c)(4)(iii)]

Compliance within State Standards:

Rights: Residents have the right to be "treated with courtesy, respect and dignity by all employees of the facility and other providers of health care and pharmacists with whom the resident comes in contact." ([Statewide Transition Plan](#), pg. 72; Summarized from [Wis. Stat. § 50.09](#))

Residents must be provided with "physical and emotional privacy in treatment, living arrangements, and in caring for personal needs" including, privacy for visits by spouse or domestic partner, or to share a room with a spouse or domestic partner if both are residents for the same facility; privacy concerning health care; confidentiality of health and personal records; and the right to approve or refuse their release to any individual outside the facility. (Statewide Transition Plan, pg. 72; Summarized from Wis. Stat. § 50.09)

"Any form of coercion to discourage or prevent a resident or the resident's legal representative from exercising any of the rights under this subchapter is prohibited. Any form of retaliation against a resident or the resident's legal representative for exercising any of the rights in this subchapter, or against an employee or any other person who assists a resident or the resident's legal representative in the exercise of any of the resident rights in this subchapter, is prohibited." (Statewide Transition Plan, pg. 72; Wis. [Admin. Code § DHS 83.32](#))

In addition, each resident shall have all of the following rights: freedom from mistreatment; freedom from seclusion; freedom from chemical restraint; and freedom from physical restraints, except upon prior review and approval by DHS upon written authorization from the resident's primary physician or advanced practice nurse prescriber. DHS may place conditions on the use of a restraint to protect the health, safety, welfare, and rights of the resident. (Statewide Transition Plan; Summarized from Wis. Admin. Code § DHS 83.32)

Met Unmet Not Applicable

The Resident Rights policy, attachment F to the agreement, addresses and ensures the privacy requirement mandated by federal and state regulations. Residents have a right to privacy in their independent apartments and when receiving personal services. Locks on doors assure privacy, and the resident chooses the extent of privacy.

Individuals are able to have visitors of their choosing at any time. [42 CFR § 441.301(c)(4)(vi)(D)]

Compliance within Wisconsin State Standards and Regulations:

Rights: Residents have the right to private and unrestricted communications with their family, physician or other medical provider, attorney, and any other person, unless documented as medically contraindicated. The right to private and unrestricted communications includes the right to... reasonable access to a telephone for private communications; and the opportunity for private visits. (WI Statewide Transition Plan; Summarized from Wis. Stat. § 50.09)

Met Unmet Not Applicable

The *Resident Service Agreement, section 2 (a) (v)* provides that residents may have visitors at any time. *Section 11(g)* states Overnight visitors must request prior approval. Visitors may stay for up to five days but not more than ten days per year. Families and community groups may use common areas for activities and parties if they wish.

Individuals have access to food at any time.

Compliance within Wisconsin State Standards and Regulations:

The CBRF must provide each resident with palatable food that meets the recommended dietary allowance based on current guidelines, including at least three meals a day and a snack in the evening, or more often based on the resident's dietary needs. If a resident is away during meal time, the CBRF shall offer food to the resident on the resident's return. The CBRF shall make reasonable adjustments to the menu for individual resident likes, habits, customs, condition, and appetites. (Summarized from Wis. Admin. Code § DHS 83.41)

Met Unmet Not Applicable

The CBRF provides three meals each day, and snacks are available 24/7. Residents may have refrigerator in their unit.

Individuals occupy the setting under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity. [42 CFR § 441.301(c)(4)(vi)(A)]

Compliance within Wisconsin State Standards and Regulations:

"Each resident shall have a written agreement that is signed by and provided to each party. The agreement includes a description of the space to be provided to the resident, the agreed upon rate, a statement of the resident's rights and the terms of termination, including timeframes. The agreement is updated annually." ([WI Statewide Transition Plan](#), pg. 77; [Wis. Admin. Code § DHS 83.29](#))

The agreement must include terms for resident notification to the CBRF of voluntary discharge, and reasons and notice requirements for involuntary discharge or transfer, including transfers within the CBRF. (WI Statewide Transition Plan, pg. 77; Summarized from Wis. Admin. Code § DHS 83.31)

State licensed settings are subject to unannounced licensing visits, both in response to complaints and during regular oversight visits. Through ongoing HCBS monitoring, Wisconsin will ensure that individuals maintain the right to make such choices while residing in this state-licensed community-based residential facility. Additionally, the state's long-term care ombudsman program has regular access to the setting.

Met Unmet Not Applicable

The *Admission Agreement* delineates monthly charges, bed-hold fees and other charges. *Section 7* specifies a 30-day requirement for termination by either the resident or the facility, including information specific to discharge and termination procedures.

Overcoming Institutional Presumption

The setting demonstrated a meaningful physical distinction between the HCBS setting and the institutional setting, including separate entrances and signage, physical divisions, and differences in décor.

Met Unmet Not Applicable

- There is a separate CBRF entrance to Hearthside Assisted Living from the SNF. The CBRF is on the opposite side of the building with offices, therapy areas, business offices, and a lobby.
- The CBRF is separated from the by administrative offices, the chapel, and other common areas. The enclosed courtyard is a sitting area for residents and visitors as weather permits. The CBRF also has a courtyard with outdoor activity areas.

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- There is clear signage inside and outside directing residents and visitors to the CBRF.
 - There is a walkway from the SNF section of the building to the Osceola Medical Center; Hearthside is not affiliated with the medical center.

Each individual has privacy in their sleeping or living unit.

Compliance within Wisconsin State Standards and Regulations:

Residents must be provided with “physical and emotional privacy in treatment, living arrangements, and in caring for personal needs” including, privacy for visits by spouse or domestic partner, or to share a room with a spouse or domestic partner if both are residents for the same facility; privacy concerning health care; confidentiality of health and personal records; and the right to approve or refuse their release to any individual outside the facility. (Statewide Transition Plan; Summarized from Wis. Stat. § 50.09)

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance surveyors that the setting (DQA, [F-02138](#), HCBS Compliance Review):

- Provides lockable key entry doors on all resident rooms, and individual keys to all residents.
- Has a policy ensuring that staff uses facility keys to enter a resident’s room only under circumstances agreed upon with the resident.

Met Unmet Not Applicable

- The CBRF consists of 16 single rooms and two double rooms. The double rooms are often shared by couples or others who choose to share the living space.
- All entrance doors to the units can be locked from the inside or outside, and residents have a key.

Individual living units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.

Compliance within Wisconsin State Standards:

Locks on living unit doors allow the resident to exercise his or her right to privacy and personal choice. Staff in each residential setting should always knock and receive permission prior to entering a resident’s living space. DHS expects the residential setting to have a policy in place to ensure that staff always knock and receive permission prior to entering a resident’s room or personal living space to respect residents’ rights to privacy. Please refer to DHS’ [Frequently Asked Questions \(FAQs\) about Door Locks in Adult Long-Term Care Residential Settings](#) for additional lock-related information.

Met Unmet Not Applicable

- All living units have a door. Residents are issued a key, and can lock their unit from the outside or the inside.
- Residents may request additional spare keys for family and friends.

Individuals sharing units have a choice of roommates in that setting.

Compliance within Wisconsin State Standards and Regulations:

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance surveyors that residents have choice of roommates (DQA, [F-02138](#), HCBS Compliance Review):

Person-Centered Planning: Family Care Provider Network, I. Access to Providers: “For residential care facilities, evidence of adequate capacity shall include identification of the availability of residential providers offering private rooms, and a process for moving an individual to a private room when one becomes available that is consistent with the member’s preferences.” ([DHS-MCO Contract, Article VIII, I\(6\)d](#))

Met Unmet Not Applicable

There are 16 private rooms and two double rooms in the CBRF. Efforts are made to ensure choice of roommates for unrelated individuals in the double rooms.

Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement. [42 CFR § 441.301(c)(4)(vi)(B)(1-3)]

Met Unmet Not Applicable

Resident Service Agreement, 1(c): Residents may furnish and decorate their unit with their own furniture as space permits. Submitted pictures confirm this with holiday decorations, fresh flowers, and comfortable-looking furniture.

The setting is physically accessible to the individual. [42 CFR § 441.301(c)(4)(vi)(E)]

Met Unmet Not Applicable

The CBRF was built in 2011, and became state-licensed meeting physical accessibility standards.

The living unit is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services:

- The individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the applicable landlord/tenant laws.
- The State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law. [42 CFR § 441.301(c)(4)(vi)(A)].

Compliance within Wisconsin State Standards and Regulations:

"Each resident shall have a written agreement that is signed by and provided to each party. The agreement includes a description of the space to be provided to the resident, the agreed upon rate, a statement of the resident's rights and the terms of termination, including timeframes. The agreement is updated annually." ([Wis. Admin. Code § DHS 83.29](#))

The agreement must include terms for resident notification to the CBRF of voluntary discharge, and reasons and notice requirements for involuntary discharge or transfer, including transfers within the CBRF. (Summarized from [Wis. Admin. Code § DHS 83.31](#))

Met Unmet Not Applicable

The Admission Agreement, Section 7, delineates monthly charges, bed-hold fees and other charges, including discharge and termination procedures.

Operational Distinction

The setting demonstrated meaningful operational distinction between the institution and the community-based setting, such as minimal administrative and financial interconnectedness.

Met Unmet Not Applicable

Operational distinction was demonstrated through review of a detailed year-to-date income and expense report, which evidenced a separation of income and expenses for the SNF and Hearthside Assisted Living.

There is a distinction between staff for the HCBS setting and the institutional setting. Staff working in the HCBS setting receive initial and ongoing training on HCBS settings rule requirements and principles, and person-centered planning.

Met Unmet Not Applicable

- The Hearthside staff consist of certified nursing assistant, medication aides, and resident services assistants.
- Some staff choose to work in both the SNF and the CBRF. All staff are trained in resident rights, HIPAA, abuse and neglect, along with safety and care topics required for licensing.

- Discussion about person-centered care plans and community-based services are part of the new employee orientation and ongoing training programs.
 - In Wisconsin, CBRFs are regulated by the state Department of Health Services, Division of Quality Assurance. The licensing regulations for CBRFs are outlined in Wis. Admin. ch. DHS 83 as required by Wis. Stat. ch. 50, specifically <http://www.legis.wi.us/rsb/code/dhs083.pdf> Chapter DHS 83.
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DHS Recommendation

DHS finds that Hearthside Assisted Living possesses the required home and community-based characteristics, is not isolating in nature, and has overcome the presumption of having institutional qualities.

Please note that these findings are preliminary only and must receive final approval from CMS.

In accordance with federal requirements, all compliance results will be made public by DHS. The decision will appear on the subsequent upload of facility information to DHS websites, including the [DQA Provider Search webpage](#) and the provider directories available at the [Consumer Guide to Health Care – Finding and Choosing an Assisted Living Facility webpage](#).

Ongoing Compliance

Wisconsin's Division of Quality Assurance (DQA) will ensure through ongoing compliance reviews that *Hearthside Assisted Living* continues to meet the requirements of the HCBS Settings Rule. The DMS Bureau of Assisted Living (BAL) has incorporated the HCBS settings rule into its current assisted living survey process and activities. ([DQA Implementation of Home and Community-Based Services Settings Rule in Residential Assisted Living Facilities](#))

Waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are certified by the Wisconsin Department of Health Services (DHS) and work within the requirements of contracts with DHS. State licensed settings are subject to unannounced licensing visits, both in response to complaints and during regular oversight visits, by the state licensing authority, or by the entity that certified the provider if not regulated by the state. As part of these periodic licensing or certification reviews, the credentialing entity will also review the setting for continued HCBS compliance. Providers will be required to address any HCBS rule deficiencies.

When HCBS participants are resident in the setting, waiver program care managers are required to have ongoing contact, including face-to-face visits, at which time any areas of concern would be identified and addressed. Each participant in a Medicaid home and community-based waiver program is further protected through the state's long-term care ombudsman program, which has regular access to the assisted living setting. [Wisconsin's Board on Aging & Long Term Care](#): The Board on Aging and Long Term Care advocates for the interests of Wisconsin's long-term care consumers, informs those consumers of their rights and educates the public about health care systems and long-term care. The Board also operates the [Long Term Care Ombudsman](#), and [Volunteer Ombudsman](#) services.

EVIDENTIARY ASSESSMENT AND SUMMARY
Home and Community-Based Services (HCBS) Settings Rule
Heightened Scrutiny Review – 3-4 Bed Adult Family Homes (AFH)

Facility Name Clearview Community Group Home		Facility Type 3-4 Bed Adult Family Home (AFH)	
Corporate Name (if applicable) Dodge County		License/Certification # 0010513	County Dodge
Facility Address 750 North Main Street	City Juneau	State WI	Zip Code 53039
Primary Contact Name Jessica Streaan	Primary Contact Direct Phone (include area code) 920-386-3231	Primary Contact Email Address jstreaan@co.dodge.wi.us	
Facility Website Address https://www.co.dodge.wi.gov/government/departments-a-d/clearview/clearview-assisted-living			

Reason for Institutional Presumption

- Settings in a publicly or privately operated facility that provides inpatient institutional treatment. [Click or tap here to enter text.](#)
- Settings on the grounds of, or adjacent to, a public institution. Name of institution: [Dodge County Human Services](#)
- Settings with the effect of isolating individuals from the broader community of individuals not receiving HCBS waiver services.

The Centers for Medicare and Medicaid Services' (CMS) HCBS settings rule assumes that certain settings are not home and community-based. If a Wisconsin assisted living facility (setting) meets one of the criteria for institutional presumption as defined above, the DHS Division of Medicaid Services (DMS) conducts a heightened scrutiny review.

DMS believes that [Clearview Community Group Home](#) has overcome the institutional presumption and meets the criteria of a home and community-based services setting as summarized below.

To reinforce the extent to which Wisconsin's licensing and certification regulations and standards align with and reinforce the HCBS settings rule, the applicable state standard or regulation is included, where applicable, with the compliance review summary below.

Facility Summary

Clearview Community Group Home (hereafter Clearview AFH) is residential four-bedroom Adult Family Home (AFH) for people who have experienced a traumatic brain injury. Two of the adults currently residing at the AFH are supported through [Family Care](#) Medicaid funding. Clearview's program is designed to continue rehabilitation, training and support so that individuals can meet their maximum levels of independence while maintaining close ties to their community. Clearview AFH is part of the Dodge County Human Services campus, which also includes a community based residential facility and a skilled nursing facility.

The setting is integrated in and supports full access to the greater community [42 CFR § 441.301(c)(4)(i)].

The community considers the setting a part of their community and does not associate the setting with institutional services.

Compliance within Wisconsin State Standards and Regulations

An adult family home shall be located so that residents can easily get to community activities and supportive services by walking or by means of convenient private or public transportation or the licensee shall ensure that residents receive the assistance necessary to enable them to get to those activities and services. The home shall be located in a residential area, which is typical of residential areas in that community. ([Wis. Admin. Code § DHS 88.05](#))

Met Unmet Not Applicable

Supporting documents submitted include Clearview’s *Program Statement*, cover letter and *Service Agreement*:

- “Residents utilize the community library, supermarket, humane society, beauty shop, banks, and members of local churches. Individuals attend community events that take place during the year in the rural communities of Juneau and surrounding area. Individuals that live at Clearview Community Group Home have the opportunity for vocational experiences at Green Valley Enterprises in Beaver Dam and local businesses. Comments from community members and families show that individuals that live at Clearview Community Group Home are community citizens” (p. 2).
- “The commander of the American Legion, Horicon Post #157, has said that individuals from Clearview Community Group Home attend their events: fish fries, pancake breakfasts, other annual community events, and are known on a first-name basis” (p. 2).
- “Managed care teams have made positive comments about how well their members have transitioned into the community from state institutions” (p.2).
- A resident’s relative said, “Mom was feeling overwhelmed at home with her son’s needs but since he came to live at Clearview Community Group Homes, she is able to have successful visits at home and in the community” (p. 2).

Individuals, to the extent they desire, have opportunities to participate in typical community life activities outside of the setting.

Compliance within Wisconsin State Standards and Regulations

Services shall be directed to the goal of assisting, teaching and supporting the resident to promote his or her health, well-being, self-esteem, independence and quality of life. These goals should include participation in leisure and recreational activities, employment, and other activities. (Summarized from [Wis. Admin. Code § DHS 88.07](#))

An adult family home shall be located so that residents can easily get to community activities and supportive services by walking or by means of convenient private or public transportation or the licensee shall ensure that residents receive the assistance necessary to enable them to get to those activities and services. The home shall be located in a residential area which is typical of residential areas in that community. (Wis. Admin. Code § DHS 88.05)

Met Unmet Not Applicable

Supporting documentation submitted include *Program Statement*, activity calendar, cover letter and testimonials.

- “Parents are happy that Clearview Community Group Home is in their community as their son can continue to join them for local baseball games and family gatherings” (p. 2).
- “One family is happy that their family member is able to come home every Friday p.m. until Monday morning. He [sic] an active member of his home community, attends the church he is a member of, and attends family celebrations. He lives and works in the Juneau area during the week” (p. 2).
- “Individuals do their shopping at the Dollar General, Shopko, Walmart, Kohl’s and other stores in the rural communities/surrounding Juneau” (p. 3).
- “Individuals attend church services and are members of local congregations” (p. 4).
- “Residents maintain personal banking accounts at financial institutions in the community” (p.4).

- “Our rural community enjoys various events such as the Dodge County Fair, Harnischfeger Fall Fest, Dodge County Airport Fly-In Breakfast, Horicon Marsh Emporium, Beaver Dam Lake Days, Watertown Riverfest, Trucker’s Jamboree in Waupun, 4th of July Fireworks, parades, farm breakfast, Tour of the lights in the community at Christmas, and other community events that residents of Clearview Community Group Home attend annually and look forward to these events” (p. 4).
- Policy and Procedure regarding Community Involvement – “Clearview Assisted Living encourages the residents to engage in community living, both inside and outside of the facility... (Policy #8502).
- A review of a person centered plan for a Clearview resident highlights that the “resident is encouraged to attend church services in the community and shops in the community with family.”

Activities are individualized or include more than just setting-based group activities.

Compliance within Wisconsin State Standards and Regulations

Each resident must have an individual service plan that is developed in conjunction with the resident. Service plans must include how the provider will enable the resident “to participate in cultural, religious, political, social and intellectual activities within the home and community” and allow services to be provided by other agencies. (Summarized from [Wis. Admin. Code §§ DHS 88.05 and 88.06](#))

Met Unmet Not Applicable

Key Findings: Cover letter and review of three (3) person-centered plans highlights individual activities for residents.

- “Resident one (1) person-centered plan confirms that the resident has his haircut at his favorite shop and arranges for transportation and appointment time.
- Resident two (2) person-centered plan confirms that the resident “will schedule his activities for the week and decide what he wants to participate in, when he wants to go shopping, etc.”
- “One or two recent organized special events were community members putting on a car/motorcycle show at the assisted living facilities and the Juneau American Legion Post #5 visits those who reside at Clearview Community Group Home” (p. 3).
- “...different volunteer groups like B.A.R.C.C. (Badgerland animal Reading and Comfort Companions) who bring their dogs to Clearview Community Group Home, Déjà vu Gracie, to talk and visit” (p. 3).
- “Individuals on a regular basis, join their family and friends for community and family gatherings and for holidays” (p. 3).
- “Individuals attend community events that take place during the year in the rural communities of Juneau and surrounding area” (Tab 1b).
- “Leisure and or Community Activities: Community activities are enjoyed and are numerous. For example, some will go to church, and are members of church, out in the community; however, many prefer not to attend. Others enjoy shopping or going out to eat. Individuals go with their families or friends and partake in community activities and family get-togethers. Card players enjoy playing King’s Corners together or Solitaire on the computer or board games” (p. 5). *Clearview Program Statement:* “To provide activities involving movement about engagement in one’s community, for purposes that include participating in vocational, recreational and social activities in the community with other members of the community.”

The setting supports access to community activities through its own transportation or coordination of transportation options.

Met Unmet Not Applicable

- *Community Involvement Policy:* Clearview AFH encourages the residents to engage in community living, both inside and outside of the facility, to the extent possible, including making transportation arrangements. Residents participate in community activities that interest them as well as addresses the residents’ cognitive, social, and psychological functioning, as well as spiritual needs. Clearview Assisted Living also uses service providers in the community to promote health and well-being.

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- Clearview AFH offers transportation to all scheduled and non-scheduled activities as well as medical appointments. Public transportation is also available in the area if a resident would like to utilize a community service. If a resident would like to use public transportation, staff offers training/assistance and is documented in the resident's Individual Service Plan. Public transportation providers are available at the request of the resident. The resident would be responsible for the cost of public transportation.
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Individuals, if they choose, have opportunities to seek employment and work in competitive integrated settings.

Compliance within Wisconsin State Standards and Regulations

Services shall be directed to the goal of assisting, teaching and supporting the resident to promote his or her health, well-being, self-esteem, independence and quality of life. These goals should include participation in leisure and recreational activities, employment, and other activities. (Summarized from Wis. Admin. Code § DHS 88.07)

From contract between DHS and specific MCOs:

V. Care Management:

C. Assessment and Member-Centered Planning Process

C.1. Comprehensive Assessment

C.1.(c) Documentation: The comprehensive assessment will include documentation by the IDT staff of:

C.1.(c)(viii) An exploration with the member of the member's preferences and opportunities for community integration including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community.

C.3. Member-Centered Planning

C.3.(c)(iv)(g) The setting in which the member resides supports integration into 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.

VII. Services

A. General Provisions

1. Comprehensive Service Delivery System

c. Serve to maintain community connections, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, and that are cost effective.

Addendum I

It is the DHS's "expectation under this contract that benefits will be fully integrated and will afford options that foster opportunities for interaction and integration into 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 while supporting each member's individual outcomes and recognizing each member's preferences."

Met Unmet Not Applicable

Clearview residents are encouraged to maintain close ties with their community. Person-centered plans submitted for one resident confirms that the resident attends a vocational training workshop three times/week in the community.

Individuals are able to control their personal resources.

Compliance within Wisconsin State Standards and Regulations

Residents have the right to manage their own financial affairs, to retain and use personal clothing and effects, and have private visitors. (Summarized from Wis. Admin. Code § DHS 88.10)

Met Unmet Not Applicable

- Residents of Clearview AFH are entitled to access to personal funds and are encouraged to establish a fund at the group home. Fund accessibility is an individual issue for each of the residents and the staff work closely with the resident, resident payee, residential staff to ensure that the individual has responsibilities in managing his/her personal resources.
- All of the residents at Clearview Group Home have suffered from a traumatic brain injury and each, to the extent of their abilities, may have some restrictions on accessing personal funds but those restrictions documented in their respective person-centered plans.
- Staff on a daily basis reconcile *Community Group Home Agreement* submitted states” Funds not kept in a financial institution. Personal funds are used for various community activities such as but not limited to shopping, trips, restaurants etc. Personal funds are also used for buying essentials for the Individuals such as clothing and personal care items. Individuals are not required to sign over any employment paychecks to the Assisted Living Community; they will be deposited into a banking account set up by the Individual.”

The setting is selected by the individual from among setting options including non-disability specific settings. [42 CFR § 441.301(c)(4)(ii)].

Compliance within Wisconsin State Standards and Regulations

Person-centered planning is supported by conflict-free care management and consultation (for the IRIS self-directed waiver). Options of services, providers, and settings, including non-disability specific settings, are offered to participants in all Wisconsin HCBS programs. (Wisconsin HCBS waivers, waiver-specific contracts, and policy documents)

Wisconsin has protections in place for Medicaid waiver participants which ensure they understand their choices. DHS waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are responsible for discussing choice of service settings with the waiver participant and family/guardian to locate the most suitable provider setting, including a discussion of living in a non-disability specific setting. In practice, the waiver agencies are complying with this requirement, and documenting and monitoring the choice of settings in the member-centered plan or IRIS support and service plan, as applicable.

In Wisconsin, the choice of setting requirement is not the initial responsibility of the provider setting. Rather the choice of setting takes place through the person-centered planning process at the waiver agency level. Waiver agencies are certified by DHS and work within the requirements of contracts with DHS. Through ongoing monitoring, Wisconsin will ensure that individuals maintain the right to choose where they reside.

Additionally, Wisconsin has protections in place through *Pre-Admission Consultation (PAC)*: <https://www.dhs.wisconsin.gov/adrc/pros/pac.htm>.

“Pre-admission consultation is a service provided by Aging and Disability Resource Centers (ADRCs) to individuals who are in the process of considering or making a decision about the need to move out of his or her home in order to receive the help they need to remain independent and safe. Sometimes people are unaware that there are services and supports that can be provided right in their own home, often making a move unnecessary. Those who want to move into a nursing home or assisted living facility (such as a community based residential facility or residential care apartment complex), can find it difficult to know which facility would be the best for them or a loved one.”

Met Unmet Not Applicable

Person centered planning policy and HCBS

“It is the policy of Clearview Assisted Living to promote person-centered care and for residents to be active in the community as required by the Department of Health Services and Home and Community Based Services (“HCBS”). If a modification to the HCBS criteria is warranted, Clearview Assisted Living will need to follow these requirements and the modifications should be documented in the Individual Service Plan (“ISP”).

The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and resources available for room and board. [42 CFR § 441.301(c)(4)(ii)].

Compliance within Wisconsin State Standards and Regulations

A home’s program statement shall describe the number and types of individuals the applicant is willing to accept into the home and whether the home is accessible to individuals with mobility problems. It shall also provide a brief description of the home, its location, the services available, who provides them and community resources available to residents who live within the home. A home shall follow its program statement. If a home makes any change in its program, the home shall revise its program statement and submit it to the licensing agency for approval 30 days before implementing the change. ([Wis. Admin. Code § DHS 88.03](#))

Each resident must have an individual service plan that is developed in conjunction with the resident. Service plans must include how the provider will enable the resident “to participate in cultural, religious, political, social and intellectual activities within the home and community” and allow for services to be provided by other agencies. (Summarized from Wis. Admin. Code §§ DHS 88.05 and 88.06)

Services shall be directed to the goal of assisting, teaching and supporting the resident to promote his or her health, well-being, self-esteem, independence and quality of life. These goals should include participation in leisure and recreational activities, employment, and other activities. (Summarized from Wis. Admin. Code § DHS 88.07)

Met Unmet Not Applicable

- *Resident Rights Policy* and Resident Rights training documents submitted highlight the individuality of each person-centered plan.
- Residents at Clearview AFH are involved in the planning and preparing of all meals. Each of the residents are given rotating tasks and chores related to meal planning including shopping, preparing, etc. Meal planning and task analysis is part of each resident’s person-centered plan. Clearview Resident one (1) plan submitted noted, “staff will help resident in the preparation of salads and desserts.”

The setting facilitates choice regarding services and supports, and who provides them. Individuals have a choice in selecting their service providers, and are not reliant on services from the institution to the exclusion of other community-based options. Individuals can choose to receive services in the community to the same degree as individuals not receiving Medicaid HCBS. [42 CFR § 441.301(c)(4)(v)]

Compliance within Wisconsin State Standards and Regulations

A home’s program statement shall describe the number and types of individuals the applicant is willing to accept into the home and whether the home is accessible to individuals with mobility problems. It shall also provide a brief description of the home, its location, the services available, who provides them and community resources available to residents who live within the home. A home shall follow its program statement. If a home makes any change in its program, the home shall revise its program statement and submit it to the licensing agency for approval 30 days before implementing the change. ([Wis. Admin. Code § DHS 88.03](#))

The resident of a 3-4 bed AFH has a right “...to exercise complete choice of providers of physical health care, mental health care and pharmaceutical services.” ([Wis. Admin. Code § DHS 88.10](#))

Person-Centered Planning

1. Options of services, providers, and settings, including non-disability specific settings, are offered to participants in all Wisconsin HCBS programs. (WI Statewide Transition Plan; Summarized from Wis. HCBS waivers, waiver-specific contracts, and policy documents.)
2. Residents have the right to “use the licensed, certified or registered provider of health care and pharmacist of the resident’s choice.” ([Wis. Stat. § 50.09](#))

The resident “... shall have opportunities to make decisions relating to care, activities and other aspects of life in the adult family home. An adult family home shall help any resident who expresses a preference for more independent living to contact any agency needed to arrange for it.” (Summarized from DHS 88.10)

Met Unmet Not Applicable

Medical Services Policy #8507:

- Clearview AFH does not provide physician services and does require the individuals to see community providers. Appointments can be made by the individual/family or the Assisted Living Supervisor (*Policy and Procedure Regarding: Medical Services*). Clearview provided a list of community doctors that serve the residents.
- Clearview *Resident Resources* binder is available that provides information on healthcare providers in the community. Clearview residents also have access to the local Mayo clinic and Gundersen Health services.
- Clearview *Policy on Medical Services* confirms that individuals are encouraged to retain their current community physician for continuity of care.

The setting optimizes, but does 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. [42 CFR § 441.301(c)(4)(iv)]

Compliance within Wisconsin State Standards and Regulations

The licensee shall encourage a resident’s autonomy, respect a resident’s need for physical and emotional privacy and take a resident’s preferences, choices and status as an adult into consideration while providing care, supervision and training.

The licensee shall plan activities and services with the residents to accommodate individual resident needs and preferences and shall provide opportunities for each resident to participate in cultural, religious, political, social and intellectual activities within the home and community. A resident may not be compelled to participate in these activities.

The licensee shall allow a resident to participate in all activities that the resident selects unless contrary to the resident’s individualized service plan or the home’s program statement. ([Wis. Admin. Code § DHS 88.07](#))

The resident “... shall have opportunities to make decisions relating to care, activities and other aspects of life in the adult family home. No curfew, rule or other restrictions on a resident’s freedom of choice shall be imposed unless specifically identified in the home’s program statement or the resident’s individual service plan. An adult family home shall help any resident who expresses a preference for more independent living to contact any agency needed to arrange for it.” (Summarized from DHS 88.10)

The resident has the right to “... meet with and participate in social and community activities at the resident’s own discretion” and “to participate in religious activities of the resident’s choice. No resident may be required to engage in any religious activity.” The resident shall be allowed to “have private visitors and have adequate time and private space for visits.” (Summarized from DHS 88.10)

Met Unmet Not Applicable

- Review of the *Program Statement and Services Agreement Handbook* support the right of each resident to enjoy individual choice, autonomy and independence in making choices about their activities, décor, visitors, etc.

- A review of three person-centered plans supported individual choice in activities, hobbies, religious observance, etc. In addition to person-centered plans, each resident has a wellness plan and an activity/recreational plan that assesses and documents interests, activities, involvement, etc.
- One) person-centered plan supported the resident in attending religious services each week. The resident requires help with transportation to and from services and requires assistance in getting dressed and ready in a timely manner.

Individuals have the freedom and support to control their own schedules and activities. [42 CFR § 441.301(c)(4)(vi)(C)]

Compliance within Wisconsin State Standards and Regulations

The licensee shall encourage a resident's autonomy, respect a resident's need for physical and emotional privacy and take a resident's preferences, choices and status as an adult into consideration while providing care, supervision and training.

The licensee shall plan activities and services with the residents to accommodate individual resident needs and preferences and shall provide opportunities for each resident to participate in cultural, religious, political, social and intellectual activities within the home and community. A resident may not be compelled to participate in these activities.

The licensee shall allow a resident to participate in all activities that the resident selects unless contrary to the resident's individualized service plan or the home's program statement. (Wis. Admin. Code § DHS 88.07)

Met Unmet Not Applicable

Assisted Living Policy:

- “Residents will be encouraged to assist with planning activities that they would like to attend. Some examples are as follows, but are not limited to, shopping, religious activities, eating at public restaurants, etc.”
- Residents of Clearview Assisted Living will be encouraged to make independent choices about activities they would like to attend and would not like to attend.
- Modifications to person-centered planning: “It is the policy of Clearview Assisted Living to promote person-centered care and for residents to be active in the community as required by the Department of Health Services and Home and Community Based Services (“HCBS”). If a modification to the HCBS criteria is warranted, Clearview Assisted Living will need to follow these requirements and the modifications should be documented in the Individual Service Plan (“ISP”).”

The setting ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint, [42 CFR § 441.301(c)(4)(iii)].

Compliance within Wisconsin State Standards and Regulations

Residents have the right to be “treated with courtesy, respect and dignity by all employees of the facility and other providers of health care and pharmacists with whom the resident comes in contact.”

The licensee shall encourage a resident's autonomy, respect a resident's need for physical and emotional privacy and take a resident's preferences, choices and status as an adult into consideration while providing care, supervision and training.

Residents must be provided with “physical and emotional privacy in treatment, living arrangements, and in caring for personal needs” including, privacy for visits by spouse or domestic partner, or to share a room with a spouse or domestic partner if both are residents for the same facility; privacy concerning health care; confidentiality of health and personal records; and the right to approve or refuse their release to any individual outside the facility. (Summarized from [Wis. Stat. § 50.09](#)).

A resident's bedroom shall provide comfort and privacy, shall be enclosed by full height walls, and shall have a rigid door that the resident can open and close. A resident's bedroom may not be used by anyone else to get to any other part of the home. (Summarized from Wis. Admin. Code § DHS 88.05)

The resident has the right to "have physical and emotional privacy in treatment, living arrangements and in caring for personal needs, including toileting, bathing and dressing." (Wis. Admin. Code § DHS 88.10)

Met Unmet Not Applicable

Resident Rights Policy and training curriculum:

What Are Resident Rights?

- The rights and protections given to residents of Assisted Living Facility (ALF) under Federal and state law that help ensure they receive the care and services they need.
- ALF must ensure and protect these rights.
- We, as caregivers, must provide advocacy on behalf of our residents, and ensure such rights are respected and upheld.
- Residents have the right to be free from abuse, neglect, misappropriation and exploitation.
- Residents must be told about their rights.

Individuals are able to have visitors of their choosing at any time. [42 CFR § 441.301(c)(4)(vi)(D)]

Compliance within Wisconsin State Standards and Regulations

Residents have the right to private and unrestricted communications with their family, physician or other medical provider, attorney, and any other person, unless documented as medically contraindicated. The right to private and unrestricted communications includes the right to reasonable access to a telephone for private communications; and the opportunity for private visits. (Summarized from Wis. Stat. § 50.09).

Met Unmet Not Applicable

- Clearview Group Home Service Agreement/Visiting Hours Section confirms, "Individuals are able to have visitors at their choosing at any time in a private, unsupervised space."
- Clearview Group Home has a sign in/out sheet and does monitor visitors into the home.

Individuals have access to food at any time.

Compliance within Wisconsin State Standards and Regulations

Resident Care: "A licensee shall provide each resident with a food sufficient to meet the resident's nutritional needs and preferences and to maintain the resident's health."

"The licensee shall provide to each resident or ensure that each resident receives 3 nutritious meals each day and snacks that are typical in a family setting." (Wis. Admin. Code § DHS 88.07)

Met Unmet Not Applicable

- As part of the resident's agreement, residents have access to three meals at their group home. Residents can also have access to snacks 24/7 and may have a refrigerator in their room. Residents are also encouraged to go outings at restaurants with family and friends.
- Residents at Clearview AFH are part of the daily planning and preparation of meals.

The living unit is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services:

- The individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the applicable landlord/tenant laws.
- The State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law. [42 CFR § 441.301(c)(4)(vi)(A)]

Compliance within Wisconsin State Standards and Regulations

The service agreement shall be dated and signed by the licensee and the person being admitted or that person's guardian or designated representative. The service agreement shall specify the parties to the agreement, services to be provided, charges for room, board and services, the terms of payments, the conditions for transfer or discharge, and a statement of resident rights and grievance procedures. (Summarized from Wis. Admin. Code § DHS 88.06)

A licensee may terminate a resident's placement only after giving the resident, the resident's guardian, if any, the resident's service coordinator, the placing agency, if any, and the designated representative, if any, 30 days written notice. The termination of a placement shall be consistent with the service agreement under s. DHS 88.06(2)(c)7. The 30 day notice is not required for an emergency termination necessary to prevent harm to the resident or other household members. (Wis. Admin. Code § DHS 88.08)

Met Unmet Not Applicable

- Each resident of Clearview has a resident rights policy, assisted living agreement that provides information on tenancy, grievance procedures, etc.
- The resident and legal representative, will be involved, as appropriate with the development of the individual service plan and the resident and/or legal representative shall sign the plan acknowledging their involvement in, and understanding and of the agreement of the plan.

Overcoming Institutional Presumption

The setting demonstrated a meaningful physical distinction between the HCBS setting and the institutional setting, including separate entrances and signage, physical divisions, and differences in décor.

Met Unmet Not Applicable

- Photos submitted show a home like atmosphere at Clearview. Common areas as well as the living areas have their own individual color schemes.
- Photo submitted of Clearview signage confirms that Clearview AFH is located at 750 North Main Street and has its own signage.
- Google map submitted confirms that the group home is in a separate building apart from the SNF.
- Photos submitted show that each of the rooms at Clearview are private, individually decorated, personally furnished each with their own private bathroom.
- At the onsite visit, review staff toured the group home, observed the signage, and attested to the home being separate from the SNF.

Each individual has privacy in their sleeping or living unit.

Compliance within Wisconsin State Standards and Regulations

Residents must be provided with "physical and emotional privacy in treatment, living arrangements, and in caring for personal needs" including, privacy for visits by spouse or domestic partner, or to share a room with a spouse or domestic partner if both are residents for the same facility; privacy concerning health care; confidentiality of health and personal records; and the right to approve or refuse their release to any individual outside the facility. (Statewide Transition Plan; Summarized from Wis. Stat. § 50.09).

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance surveyors that the setting (DQA, [E-02138](#), HCBS Compliance Review):

1. Provides lockable key entry doors on all resident rooms, and individual keys to all residents.
2. Has a policy ensuring that staff uses facility keys to enter a resident's room only under circumstances agreed upon with the resident.

Met Unmet Not Applicable

- *Clearview Lock and Key Policy* submitted that states that each resident is entitled to a key, keyed lock and a key for a family member or legal representative.
- Before entering a resident's room, staff members are required to knock and announce themselves.
- If a resident cannot handle a key or chooses not to have a keyed lock, then it is documented in the resident's person-centered plan.

Individual living units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.

Compliance within Wisconsin State Standards

Locks on living unit doors allow the resident to exercise his or her right to privacy and personal choice. Staff in each residential setting should always knock and receive permission prior to entering a resident's living space. DHS expects the residential setting to have a policy in place to ensure that staff always knock and receive permission prior to entering a resident's room or personal living space to respect residents' rights to privacy. Please refer to DHS' [Frequently Asked Questions \(FAQs\) about Door Locks in Adult Long-Term Care Residential Settings](#) for additional lock-related information.

Met Unmet Not Applicable

- Before entering a resident's room, staff members are required to knock and announce themselves.
- As part of the Resident's rights training for staff, training on key policy and procedure makes clear that a staff member needs to protect the privacy of each resident, knock before entering, etc.

Individuals sharing units have a choice of roommates in that setting.

Compliance within Wisconsin State Standards and Regulations

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance surveyors that residents have choice of roommates (DQA, [F-02138](#), HCBS Compliance Review): Family Care Provider Network, I. Access to Providers: "For residential care facilities, evidence of adequate capacity shall include identification of the availability of residential providers offering private rooms, and a process for moving an individual to a private room when one becomes available that is consistent with the member's preferences." ([DHS-MCO Contract, Article VIII, I\(6\)d](#))

Met Unmet Not Applicable

- Three of Clearview's living units are single occupancy and one living unit is double occupancy.
- Policy submitted states that there is a procedure in place to change a room or request a change for roommates:
 - The recommendation for a room change will be made jointly between disciplines in collaboration with the resident and legal representative and any other person the resident wishes to include.
 - Prior to the move, the Adult Living Supervisor will seek permission from the resident and/or legal representative with an explanation given for the proposed move. The move may be refused unless there is the presence of an emergent situation.
 - Notice should be given at least 24 hours in advanced, both orally and written, unless resident and/or legal representative voice preference to have the room change occur immediately.

Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement. [42 CFR § 441.301(c)(4)(vi)(B)(1-3)]

Compliance within Wisconsin State Standards and Regulations

The resident shall have the right to “retain and use personal clothing and effects and to retain, as space permits, other personal possessions in a reasonably secure manner.” (Wis. Admin. Code § DHS 88.10)

Met Unmet Not Applicable

- Photos submitted show individual rooms with personal décor and furnishings.
- At the onsite review, staff toured the group home and living units and confirmed that each were individually decorated.

The setting is physically accessible to the individual. [42 CFR § 441.301(c)(4)(vi)(E)]

Compliance within Wisconsin State Standards and Regulations

“An adult family home shall be physically accessible to all residents of the home. Residents shall be able to easily enter and exit the home, to easily get to their sleeping rooms, a bathroom, the kitchen and all common living areas in the home, and to easily move about in the home. Additional accessibility features shall be provided, if needed to accommodate the physical limitations of a resident or if specified in the resident’s individual service plan.” (Wis. Admin. Code § DHS 88.05)

Met Unmet Not Applicable

The setting is physically accessible.

Operational Distinction

The setting demonstrated meaningful operational distinction between the institution and the community–based setting, such as minimal administrative and financial interconnectedness.

Met Unmet Not Applicable

- Clearview Community Group Home 2019 Operating Budget – Reflects separate business unit designations for Clearview Community Group Home (#4527) and the nursing home (#4520).
- Clearview Nursing Home 2019 Budget (for comparison) – SNF
- The assisted living supervisor determines needs, plans the fiscal year, and creates the budget for long-range initiatives

There is a distinction between staff for the HCBS setting and the institutional setting. Staff working in the HCBS setting receive initial and ongoing training on HCBS settings rule requirements and principles, and person-centered planning.

Met Unmet Not Applicable

- “The Executive Director provides consultation and directives to the Assisted Living Supervisor on regular basis. The Assisted Living Supervisor manages the day-to-day operations of the Assisted Living, providing feedback to the Executive Director as the voice of the staff and residents. All Clearview Community Group Home staff are supervised by the Assisted Living Supervisor.”
- Clearview’s Organizational Chart shows “A distinction that the Clearview Administrator/Executive Director provides supervision and delegates duties to the Assisted Living Supervisor”
- Documents submitted included Clearview Group Home and Assisted Living’s training and staffing schedules for the CBRF, SNF and RCAC which clearly indicates that there is distinct staffing for each of the Clearview/Dodge County campus community’s settings.
- Clearview Group Home and Assisted Living Orientation and checklist include a written HCBS training curriculum that confirms the highlights of HCBS settings rule: “The tenant of Clearview Group Home has the right to privacy and autonomy. The tenant must have a setting that is home like and residential in nature. Services are available to each resident including personal, supportive, care and nursing and are available and planned to meet the

individual needs of the tenant. The tenant at Clearview Assisted Living occupies a private room/semi private room and can expect to enjoy all levels of privacy and private living and community engagement available for each resident. A comprehensive person centered planning process, assessment is completed prior to admission, and each tenant can expect that the plan will be updated regularly and formally on an annual basis.

DHS Recommendation

DHS finds that [Clearview Community Group Home](#) possesses the required home and community-based characteristics, is not isolating in nature, and overcomes the presumption of having institutional qualities.

Please note that these findings are preliminary only and must receive final approval from CMS.

In accordance with federal requirements, all compliance results will be made public by DHS. The decision will appear on the subsequent upload of facility information to DHS websites, including the [DQA Provider Search webpage](#) and the provider directories available at the [Consumer Guide to Health Care – Finding and Choosing an Assisted Living Facility webpage](#).

Ongoing Compliance

Wisconsin's Division of Quality Assurance (DQA) will ensure through ongoing compliance reviews that [Clearview Community Group Home](#) continues to meet the requirements of the HCBS Settings Rule. The DMS Bureau of Assisted Living (BAL) has incorporated the HCBS settings rule into its current assisted living survey process and activities. ([DQA Implementation of Home and Community-Based Services Settings Rule in Residential Assisted Living Facilities](#))

Waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are certified by the Wisconsin Department of Health Services (DHS) and work within the requirements of contracts with DHS. State licensed settings are subject to unannounced licensing visits, both in response to complaints and during regular oversight visits, by the state licensing authority, or by the entity that certified the provider if not regulated by the state. As part of these periodic licensing or certification reviews, the credentialing entity will also review the setting for continued HCBS compliance. Providers will be required to address any HCBS rule deficiencies.

When HCBS participants are resident in the setting, waiver program care managers are required to have ongoing contact, including face-to-face visits, at which time any areas of concern would be identified and addressed. Each participant in a Medicaid home and community-based waiver program is further protected through the state's long-term care ombudsman program, which has regular access to the assisted living setting. [Wisconsin's Board on Aging & Long Term Care](#): The Board on Aging and Long Term Care advocates for the interests of Wisconsin's long-term care consumers, informs those consumers of their rights and educates the public about health care systems and long-term care. The Board also operates the [Long Term Care Ombudsman](#), and [Volunteer Ombudsman](#) services.

EVIDENTIARY ASSESSMENT AND SUMMARY
Home and Community-Based Services (HCBS) Settings Rule
Heightened Scrutiny Review – Residential Care Apartment Complex (RCAC)

Facility Name Country Ridge		Facility Type Residential Care Apartment Complex (RCAC)		
Corporate Name (if applicable) Trempealeau County Health Care Center		License/Certification # 0010272	County Trempealeau	
Facility Address 13197 Church St.	City Pigeon Falls	State WI	Zip Code 54760	
Primary Contact Name Rosemarie Thesing	Primary Contact Direct Phone (include area code) 715-983-2293 ext. 4011		Primary Contact Email Address rthesing@tchcc.com	
Facility Website Address http://www.tchcc.com/pigeon-falls/country-ridge-apts/				

Reason for Institutional Presumption

- Settings in a publicly or privately operated facility that provides inpatient institutional treatment. Trempealeau County Health Care Center
- Settings on the grounds of, or adjacent to, a public institution. Name of institution: Pigeon Falls Health Care Center
- Settings with the effect of isolating individuals from the broader community of individuals not receiving HCBS waiver services.

The Centers for Medicare and Medicaid Services' (CMS) HCBS settings rule assumes that certain settings are not home and community-based. If a Wisconsin assisted living facility (setting) meets one of the criteria for institutional presumption as defined above, the DHS Division of Medicaid Services (DMS) conducts a heightened scrutiny review.

DMS believes that Country Ridge has overcome the institutional presumption and meets the criteria of a home and community-based services setting as summarized below.

To reinforce the extent to which Wisconsin's licensing and certification regulations and standards align with and reinforce the HCBS settings rule, the applicable state standard or regulation is included, where applicable, with the compliance review summary below.

Facility Summary

Pigeon Falls, located in Pigeon Falls, Wisconsin is part of the Trempealeau County Health Care Center. Pigeon Falls Country Ridge is a Residential Apartment Complex (RCAC) licensed by the State of Wisconsin and serves the frail elderly population. Pigeon Falls is in a rural setting and is located within a small village. The two closest towns, Whitehall and Osseo are located within ten miles of Country Ridge and approximately 36 miles from Eau Claire, Wisconsin. Country Ridge is in a quiet, rural neighborhood, which is within walking distance of Pigeon Creek and Pigeon Falls businesses, parks, restaurants and churches. Country Ridge has eight apartments; the current census is eight residents, with five residents supported by [Family Care](#), Medicaid long-term care funding.

The setting is integrated in and supports full access to the greater community [42 CFR § 441.301(c)(4)(i)].

The community considers the setting a part of their community and does not associate the setting with institutional services.

Met Unmet Not Applicable

- Documents submitted include Program statement, service agreement, demographics of area, website, and announcements from local papers, memorial poster and community posters.
- Photos of the apartments and grounds confirm that Country Ridge is nestled in the town of Pigeon Falls and the majority of the residents come from Pigeon Falls and the surrounding community. Community members worked closely with Trempealeau County Health Center to advocate for independent living apartments on the campus.
- Each week, the fire department hosts a community card game and many of the players come from Country Ridge.
- Posters highlighting community events are delivered on a regular basis to Country Ridge for the residents' participation.
- One of the residents of Country Ridge sits on the local Citizen Advisory Board.
- Event rooms at Country Ridge frequently host community events, support groups, etc.

Individuals, to the extent they desire, have opportunities to participate in typical community life activities outside of the setting.

Compliance within Wisconsin State Standards and Regulations

From [contract between SMA and specific MCOs](#):

ADDENDUM VI.

Personal Experience Outcomes in Long-Term Care:

Assisting people to achieve their desired individual quality-of-life outcomes is one of the primary goals of managed long-term care. The following personal experience outcome domains are the areas of life that people in long-term care programs have identified as being important to their quality of life. They provide a framework for learning about and understanding the individual's needs, values, preferences, and priorities in the assessment and care planning process and in monitoring the quality of our long-term care programs. It is expected that each of these domains will be assessed during the member-centered planning process.

Choice – choosing:

1. Where and with whom to live
2. Supports and services
3. Daily routines

Personal Experience – having:

4. Interaction with family and friends
5. Work or other meaningful activities
6. Community involvement
7. Stability
8. Respect and fairness
9. Privacy

Each participant in a Medicaid home and community-based waiver program must have a person-centered plan that, when indicated, includes any conditions that are to be applied to the conditions defined in the HCBS settings rule. (Wisconsin HCBS waivers, waiver-specific contracts, and policy documents)

Met Unmet Not Applicable

- Documents submitted- Service Agreement, Demographic Information, tenant vehicle policy, sample person-centered plans and photos.
- Based on the submitted person-centered plans, three (3) residents continue to actively volunteer in the community. One of the resident is a hospice volunteer, one resident leads a reading group at the SNF and one resident coordinates the welcoming committee.
- Prior to Covid-19, one of the residents was planning a trip to London and the resident continues to be active in the community.
- The county ARDC program provides information on shopping trips in the community and is accessible by the tenants at Country Ridge.
- Photo submitted that highlights upcoming community events. Event flyers are posted throughout the RCAC as well as in newspapers that are available in the resident's dining room.

Activities are individualized or include more than just setting-based group activities.

Met Unmet Not Applicable

- There is a variety of individual activities at Country Ridge- crossword and jigsaw puzzles, crocheting, shopping, etc.
- A review of sample person-centered plans confirm that an assessment of leisure time activities, choices, interests and hobbies are conducted for each resident an updated on a regular basis. Residents continue to pursue individual activities on their own.
- Per the program statement and resident rights policy, Country Ridge residents may come and go as they please and participate in community activities as they wish. In addition to an ISP, each resident will have an activity assessment and be encouraged to participate in community, leisure, and social activities as they choose.

The setting supports access to community activities through its own transportation or coordination of transportation options.

Met Unmet Not Applicable

- Submitted documents emphasize that residents can go wherever they choose. At the time, three residents volunteered their time in the community and in the facility. Some residents have their own vehicle; others go with family and friends. The County ADRC has a transportation program for medical, shopping and other activities. Country Ridge will also help arrange transportation for medical and other activities.
- A review of person-centered plans confirms that transportation and options are highlighted in each plan. Two of the resident's plans indicate that both residents utilize both the ARDC transportation services as well as local taxi and other services.

Individuals, if they choose, have opportunities to seek employment and work in competitive integrated settings.

Compliance within Wisconsin State Standards and Regulations

From contract between DHS and specific MCOs:

V. Care Management:

C. Assessment and Member-Centered Planning Process

C.1. Comprehensive Assessment

C.1.(c) Documentation: The comprehensive assessment will include documentation by the IDT staff of:

C.1.(c)(viii) An exploration with the member of the member's preferences and opportunities for community integration including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community.

C.3. Member-Centered Planning

C.3.(c)(iv)(g) The setting in which the member resides supports integration into 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.

VII. Services

A. General Provisions

1. Comprehensive Service Delivery System

- c. Serve to maintain community connections, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, and that are cost effective.

Addendum I

It is the DHS's "expectation under this contract that benefits will be fully integrated and will afford options that foster opportunities for interaction and integration into 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 while supporting each member's individual outcomes and recognizing each member's preferences."

Met Unmet Not Applicable

- Resident testimonial submitted cited the resident's volunteer position in hospice. "By the way, I have been a volunteer at hospice for 2 ½ years".
- The person-centered plan includes several areas for personal growth, services in the community, leisure time activities and preferences.
- There are a number of transportation options, including resident owning vehicles that support individual outcomes and member's preferences. ADRC flyer was submitted and there are fee based transportation services available through Trempealeau County Health Care Center.
- The Country Ridge Service Agreement affirms that tenants "maintain the highest possible level of personal independence for as long as possible." The Functional Assessment determines the individual's functionality in ADLs and IADLs to determine needs and services. The Tenant Rights policy includes a section on privacy, management of financial affairs, choice of health care providers, and visitors and activities.

Individuals are able to control their personal resources.

Compliance within Wisconsin State Standards and Regulations

Each tenant has the right to manage his or her own financial affairs, unless the tenant delegates responsibility to another person or the tenant has a guardian. (Summarized from [Wis. Admin. Code § DHS 89.34](#))

From [contract between SMA and specific MCO](#):

V. Care Management:

C. Assessment and Member-Centered Planning Process

C.1. Comprehensive Assessment

C.1.(c) The comprehensive assessment will include documentation by the interdisciplinary (IDT) staff of all of the following:

- (ix) An exploration with the member of the member's preferences and opportunities for community integration including opportunities to control personal resources.

C.3. Member-Centered Plan (MCP)

C.3.(c)(iv) The MCP shall document at least the following:

- (g) The setting in which the member resides supports integration into the greater community, including opportunities to control personal resources.

Met Unmet Not Applicable

-
- Country Ridge Tenant Rights policy confirms that each tenant “manages his/her own financial affairs unless the tenant delegates, in writing, responsibility for financial management to someone of the tenant’s choosing”.
 - Management of personal finances and support for management is documented in the person-centered plan.
-

Choice, Independence, and Person-Centered Planning

The setting is selected by the individual from among setting options including non-disability specific settings. [42 CFR § 441.301(c)(4)(ii)].

Compliance within Wisconsin State Standards and Regulations

Wisconsin has protections in place for Medicaid waiver participants which ensure they understand their choices. DHS waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are responsible for discussing choice of service settings with the waiver participant and family/guardian to locate the most suitable provider setting, including a discussion of living in a non-disability specific setting. In practice, the waiver agencies are complying with this requirement, and documenting and monitoring the choice of settings in the member-centered plan or IRIS support and service plan, as applicable.

In Wisconsin, the choice of setting requirement is not the initial responsibility of the provider setting. Rather the choice of setting takes place through the person-centered planning process at the waiver agency level. Waiver agencies are certified by DHS and work within the requirements of contracts with DHS. Through ongoing monitoring, Wisconsin will ensure that individuals maintain the right to choose where they reside.

Additionally, Wisconsin has protections in place through *Pre-Admission Consultation (PAC)*: <https://www.dhs.wisconsin.gov/adrc/pros/pac.htm>

“Pre-admission consultation is a service provided by Aging and Disability Resource Centers (ADRCs) to individuals who are in the process of considering or making a decision about the need to move out of his or her home in order to receive the help they need to remain independent and safe. Sometimes people are unaware that there are services and supports that can be provided right in their own home, often making a move unnecessary. Those who want to move into a nursing home or assisted living facility (such as a community based residential facility or residential care apartment complex), can find it difficult to know which facility would be the best for them or a loved one.”

From [contract between SMA and specific MCOs](#):

V. Care Management:

A. Member Participation:

A.2. Members shall receive clear explanations of:

- d. The full range of residential options, including in-home care, residential care and nursing home care when applicable.
- e. The benefits, drawbacks and likelihood of success of each option.

C.1. Comprehensive Assessment

C.1. (ix) – An exploration with the member of the member’s preferred living situation and a risk assessment for the stability of housing and finances to sustain housing as indicated.

C.3. Member-Centered Plan (MCP)

C.3.(c)(iv) The MCP shall document at least the following:

(f) – The home and community-based residential setting option chosen by the member and other options presented to the member unless the member declines to consider other options.

ADDENDUM VI.

Personal Experience Outcomes in Long-Term Care:

WI DHS F-02383A (12/2020)

Provider: Country Ridge

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Assisting people to achieve their desired individual quality-of-life outcomes is one of the primary goals of managed long-term care. The following personal experience outcome domains are the areas of life that people in long-term care programs have identified as being important to their quality of life. They provide a framework for learning about and understanding the individual's needs, values, preferences, and priorities in the assessment and care planning process and in monitoring the quality of our long-term care programs. It is expected that each of these domains will be assessed during the member-centered planning process.

Choice – choosing:

- I. Where and with whom to live
- . Supports and services

[50.034, Stats](#)

WI State Statute 50.034 Residential care apartment complexes.

5n) Required referral. Subject to sub. [\(5p\)](#), when a residential care apartment complex first provides written material regarding the residential care apartment complex to a prospective resident who is at least 65 years of age or has developmental disability or a physical disability and whose disability or condition is expected to last at least 90 days, the residential care apartment complex shall refer the prospective resident to a resource center under s. [46.283](#), unless any of the following applies:

[50.034\(5n\)\(c\)](#) The person is an enrollee of a care management organization.

Person-Centered Planning: Options of services, providers, and settings, including non-disability specific settings, are offered to participants in all Wisconsin HCBS programs. ([Statewide Transition Plan](#), pg. 85; Wisconsin HCBS waivers, waiver-specific contracts, and policy documents)

Met Unmet Not Applicable

- Country Ridge residents enrolled in Family Care participate in the MCP process, which includes discussion of where they want to live. The facility ISP format includes several sections related to individual choice, autonomy and independence including setting of choice and a signature sign-off that the resident “is satisfied with his current living environment.”
- Samples of signed applications noting preference of settings submitted.
- Three MCP plans submitted which outlined options for services, personal goals for long term care, individual needs and preferences for daily living, etc.

The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and resources available for room and board. [42 CFR § 441.301(c)(4)(ii)].

Compliance within Wisconsin State Standards and Regulations

Wisconsin Admin. Code ch. DHS 89 is intended “to establish standards and procedures for the certification or registration of residential care apartment complexes in order to promote the health and safety of persons residing in and receiving services from those facilities. This chapter is intended to ensure that all residential care apartment complexes provide each tenant with an independent apartment in a setting that is home-like and residential in character; make available personal, supportive and nursing services that are appropriate to the needs, abilities and preferences of individual tenants; and operate in a manner that protects tenants’ rights, respects tenant privacy, enhances tenant self-reliance and supports tenant autonomy in decision-making including the right to accept risk.” ([Wis. Admin. Code § DHS 89.11](#))

The tenant has the right to choose services and the right to refuse services. The tenant has the right to receive visitors, meet with groups, or participate in activities of the tenant’s choice, to receive and send sealed mail, and to have a private phone installed in his or her independent apartment. (Summarized from [Wis. Admin. Code § DHS 89.34](#))

Each tenant has the right to: manage his or her own financial affairs, unless the tenant delegates responsibility to another person or the tenant has a guardian; have choice of his or her physician and other medical providers; and a choice of providers of supportive, personal, and nursing services from providers other than the residential care apartment complex, subject to the requirements of [Wis. Admin. Code § DHS 89.24\(2\)\(b\)](#).

From [contract between SMA and specific MCOs](#):

V. Care Management:

C. Assessment and Member-Centered Planning Process:

Member-centered planning reflects understanding between the member and the IDT staff and will demonstrate changes that occur with the member's outcomes and health status. The member is always central to the member centered planning and comprehensive assessment process. The IDT staff will ensure that the member is at the center of the member centered planning process. The member will actively participate in the planning process, in particular, in the identification of personal outcomes and preferences.

Met Unmet Not Applicable

- The Residence Director of Country Ridge meets with the individual prior to residency and if the individual is supported through Family Care, a member-centered plan is developed in full partnership with the individual. The Managed Care organization always includes discussion about where the individual would like to live and identifies outcomes and goals for each member. Included are discussion about setting or choices, employment and education, and social and family/friends interaction.
- A functional assessment, conducted for each individual, during intake includes daily living goals, transportation options, and financial management, well-being, socialization and leisure time preferences.

The setting facilitates choice regarding services and supports, and who provides them. Individuals have a choice in selecting their service providers, and are not reliant on services from the institution to the exclusion of other community-based options. Individuals can choose to receive services in the community to the same degree as individuals not receiving Medicaid HCBS. [42 CFR § 441.301(c)(4)(v)]

Compliance within State Standards

From Contract Between SMA and Each MCO:

VIII. Provider Network,

A. Member Choice

1. Information to Members: The MCO shall inform members about the full range of provider choice available to them, including free choice of medical and other providers that remain fee-for-service for Family Care members, as applicable.

From [IRIS Policy Manual](#)

1.1C Philosophy

Self-direction means people have more choice, control, flexibility, freedom, and responsibility. Within the context of IRIS, self-direction means participants decide upon the following:

1. The goods, supports, and services needed to help live the life he or she wants while meeting his or her long-term care outcomes.
2. The amount and location that goods, supports, and services are provided, as well as decisions on the provider of these services.

Person-Centered Planning:

1. Options of services, providers, and settings, including non-disability specific settings, are offered to participants in all Wisconsin HCBS programs. (Statewide Transition Plan, pg. 87; Summarized from Wis. HCBS waivers, waiver-specific contracts, and policy documents.)
2. Residents have the right to "receive adequate and appropriate care within the capacity of the facility" and to "use the licensed, certified or registered provider of health care and pharmacist of the resident's choice." ([Wis. Stat. § 50.09](#))

Rights:

1. The tenant has the right to choose services and the right to refuse services. (WI Statewide Transition Plan, pg. 84; Summarized from Wis. Admin. Code § DHS 89.34)
2. Each tenant has the right to: have choice of his or her physician and other medical providers; and a choice of providers of supportive, personal, and nursing services from providers other than the residential care apartment complex, subject to the requirements of [Wis. Admin. Code § DHS 89.24\(2\)\(b\)](#). (WI Statewide Transition Plan, pg. 85; Summarized from Wis. Admin. Code § [DHS 89.34](#))

Met Unmet Not Applicable

- As part of the tenant’s rights policy, under the section, *Choice of Health Care Providers*, “to choose his/her physician and providers of other medical and pharmaceutical services. A tenant shall not be required to use medical or pharmaceutical provider’s affiliated with the facility.”
- The service agreement section provides that outside providers can serve an individual (in their apartment) as long as the facility approves the outside providers and the outside providers comply with applicable facility policy and procedures, attachment E. The Country Ridge policy statement “Quality of Life – Resident Self Determination and Participation” states “our facility respects and promotes the right of each resident to exercise his or her autonomy regarding what the resident considers to be important facets of his or her life” including daily routine, personal care needs, providers of healthcare services.

The setting optimizes, but does 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. [42 CFR § 441.301(c)(4)(iv)]

Compliance within Wisconsin State Standards and Regulations

Wisconsin Admin. Code ch. DHS 89 is intended “to establish standards and procedures for the certification or registration of residential care apartment complexes in order to promote the health and safety of persons residing in and receiving services from those facilities. This chapter is intended to ensure that all residential care apartment complexes provide each tenant with an independent apartment in a setting that is home-like and residential in character; make available personal, supportive and nursing services that are appropriate to the needs, abilities and preferences of individual tenants; and operate in a manner that protects tenants’ rights, respects tenant privacy, enhances tenant self-reliance and supports tenant autonomy in decision-making including the right to accept risk.” ([Wis. Admin. Code § DHS 89.11](#))

Each tenant will have a service agreement based on an assessment conducted with the active participation of the tenant. The service agreement includes the type, amount, and frequency of any services to be provided to the tenant, any additional services that are available, and the activities and social connections the tenant will be assisted in maintaining. (Summarized from [Wis. Admin. Code §§ DHS 89.26 and 89.27](#))

The tenant has the right to choose services and the right to refuse services. The tenant has the right to receive visitors, meet with groups or participate in activities of the tenant’s choice, to receive and send sealed mail, and to have a private phone installed in his or her independent apartment. (Summarized from [Wis. Admin. Code § DHS 89.34](#))

Met Unmet Not Applicable

- Visitors permitted at Country Ridge at any time. Country Ridge requests that visitors who plan to stay overnight inform the facility.
- The Country Ridge program statement – Resident Self Determination and Participation states “our facility respects and promotes the right of each resident to exercise his or her autonomy regarding what the resident considers to be important facets of his or her life” including daily routine, personal care needs, providers of healthcare services, activities, hobbies and interests, religious affiliation and worship preferences and community involvement, including work or volunteer opportunities.

Individuals have the freedom and support to control their own schedules and activities. [42 CFR § 441.301(c)(4)(vi)(C)]

Compliance within Wisconsin State Standards and Regulations

Wisconsin Admin. Code ch. DHS 89 is intended “to establish standards and procedures for the certification or registration of residential care apartment complexes in order to promote the health and safety of persons residing in and receiving services from those facilities. This chapter is intended to ensure that all residential care apartment complexes provide each tenant with an independent apartment in a setting that is home-like and residential in character; make available personal, supportive and nursing services that are appropriate to the needs, abilities and preferences of individual tenants; and operate in a manner that protects tenants' rights, respects tenant privacy, enhances tenant self-reliance and supports tenant autonomy in decision-making including the right to accept risk.” ([Wis. Admin. Code § DHS 89.11](#))

Met Unmet Not Applicable

- Tenant Rights policy confirm the right to self-direction, service choice, courtesy, respect, mail and telephone access.
- Tenant Rights policy, section on Self-Direction, “to make reasonable decisions relating to activities, daily routines, use of personal space, how to spend one’s time and other daily activities at the assisted living facility.”
- Country Ridge program statement and resident rights under Self-Direction- “our facility respects and promotes the right of each resident to exercise his or her autonomy regarding what the resident considers to be important facets of his or her life” including daily routine, personal care needs, providers of healthcare services, activities, hobbies and interests, religious affiliation and worship preferences and community involvement, including work or volunteer opportunities. Country Ridge tenants can participate in onsite and community activities whenever they choose. Country Ridge is a Residential Community Apartment Complex, each apartment furnished with a stove, refrigerator and microwave, and tenants can prepare meals in their apartments.
- A review of person-centered plans confirms that each tenant makes their own choices about their schedules and daily activities.

The setting ensures an individual’s rights of privacy, dignity and respect, and freedom from coercion and restraint, [42 CFR § 441.301(c)(4)(iii)].

Compliance within State Standards

Country Ridge is a residential care apartment complex (RCAC). RCACs are independent apartments that offer additional services, if needed. The services provided to tenants are based on the tenant’s selection from a menu of services and supports, both in the setting and in the community. A tenant may choose to do most activities independently or have more comprehensive assistance.

State-regulated settings are subject to unannounced licensing visits, both in response to complaints and during regular oversight visits. In addition, when HCBS participants are resident in the setting, waiver program care managers are required to have ongoing contact, including face-to-face visits, at which time any member rights issues would be identified and addressed.

Rights: A tenant has the right “to have privacy in his or her independent apartment and when receiving supportive, personal or nursing services.” The tenant has the right “to be free from physical, sexual or emotional abuse, neglect or financial exploitation or misappropriation of property by the facility, its staff or any service provider under contract with the facility” and has the right to be free from coercion. (Statewide Transition Plan, pgs. 85-86; Summarized from Wis. Admin. Code §§ DHS [89.34](#) and [89.36](#))

DHS prohibits the use of restraint or seclusion of waiver participants unless the specific restraint or seclusion intervention has been reviewed and approved by DHS. Use of restraint and/or isolation is monitored by waiver agencies and DHS. Guidelines on restraints and isolation are found at: www.dhs.wisconsin.gov/waivermanual/appndx-r1.pdf and www.dhs.wisconsin.gov/dqa/memos/15-003.pdf (WI Statewide Transition Plan)

Met Unmet Not Applicable

- The Country Ridge tenant’s rights policy agreement confirms that each tenant has the right to courtesy and respect, privacy, safe environment, freedom from abuse, coercion and retaliation.

Individuals are able to have visitors of their choosing at any time. [42 CFR § 441.301(c)(4)(vi)(D)]

Compliance within Wisconsin State Standards and Regulations

“Each independent apartment shall be of adequate size and configuration to permit tenants to carry out, with or without assistance, all the functions necessary for independent living, including... entertaining visitors.” (WI Statewide Transition Plan; [Wis. Admin. Code § DHS 89.22](#))

The tenant has the right to receive visitors, meet with groups, or participate in activities of the tenant’s choice, to receive and send sealed mail, and to have a private phone installed in his or her independent apartment. (WI Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 89.34](#))

Met Unmet Not Applicable

Visitors are welcome on a 24-hour basis and tenants are ensured of privacy for visits. Country Ridge requests that permission be sought for overnight visitors.

Individuals have access to food at any time.

Compliance within Wisconsin State Standards and Regulations

A “Residential care apartment complex’ consists of independent apartments, each of which has an individual lockable entrance and exit, a kitchen, including a stove, and individual bathroom, sleeping and living areas” ([Wis. Admin. Code § DHS 89.13](#))

Each independent apartment shall have a kitchen that is “a visually and functionally distinct area within the apartment. The refrigerator shall have a freezer compartment. The sink shall have hot and cold running water.” (Wis. Admin. Code § DHS 89.22)

Met Unmet Not Applicable

- Admission agreement, under Meals section, states, “Country Ridge will serve two nutritionally balanced meals daily in the dining room. A continental breakfast is available daily.
- Tenants may prepare meals in their living apartments. Each apartment is equipped with a stove, refrigerator and microwave.

The living unit is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services. The individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under applicable landlord/tenant laws. The State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord/tenant laws. [42 CFR § 441.301(c)(4)(vi)(A)].

Compliance within Wisconsin State Standards and Regulations

A residential care apartment complex shall enter into a mutually agreed-upon written service agreement with each of its tenants. The agreement shall include the services and the charges for any services in the service agreement and any additional services that are available for purchase. The agreement must also include the grounds for any termination of the agreement. (WI Statewide Transition Plan, pg. 88; Summarized from Wis. Admin. Code § [DHS 89.27](#))

Met Unmet Not Applicable

- Policy statement submitted that states “the purpose of Country Ridge is to provide each tenant with
- An independent apartment setting that is home-like and residential in character
- Provide available personal, supportive, and nursing services appropriate to the needs, abilities and preferences of individuals tenants
- Operate in a manner that protects tenants’ rights, respects privacy, enhances tenant self-reliance and supports tenant autonomy in decision-making including the right to accept risk.

-
- Written tenant service agreement covers financial arrangement, costs of services, optional services, termination, transfer to different care levels, facility termination, refunds, etc.
-

Overcoming Institutional Presumption

The setting demonstrated a meaningful physical distinction between the HCBS setting and the institutional setting, including separate entrances and signage, physical divisions, and differences in décor.

Met Unmet Not Applicable

- Country Ridge Facility layout and plan submitted- There are separate entrances for the RCAC from the SNF. Each apartment has its own lock and the entrances to the SNF are locked and not accessible to the RCAC.
- Photo of the main entrance to Country Ridge shows separate signage. Entering in through the main entrance, separate hallway and sign to Country Ridge.
- Photos of apartments show individual furnishings, separate décor and paint.

Each individual has privacy in their sleeping or living unit.

Compliance within Wisconsin State Standards and Regulations

A “residential care apartment ‘complex’ or ‘facility’... consists of independent apartments, each of which has an individual lockable entrance and exit, a kitchen, including a stove, and individual bathroom, sleeping and living areas...” ([Wis. Admin. Code § DHS 89.13](#))

A tenant has the right “to have privacy in his or her independent apartment and when receiving supportive, personal or nursing services.” The tenant has the right “to be free from physical, sexual or emotional abuse, neglect or financial exploitation or misappropriation of property by the facility, its staff or any service provider under contract with the facility” and has the right to be free from coercion. (Summarized from Wis. Admin. Code §§ DHS 89.34 and 89.36)

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance (DQA) surveyors that the setting (DQA, [F-02138](#), HCBS Compliance Review):

- Provides lockable key entry doors on all resident rooms, and individual keys to all residents.
- Has a policy ensuring that staff uses facility keys to enter a resident’s room only under circumstances agreed upon with the resident.

Met Unmet Not Applicable

- Key policy submitted confirm that tenants have their individual right to privacy with their own key to their apartments.
- Staff key policy emphasizes that staff can only enter an apartment with prior permission and must knock first.
- Photos of apartment doors with keyed locks show individual units.

Individual living units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.

Compliance within Wisconsin State Standards

Each independent apartment shall have “an individual lockable entrance and exit. A single door may serve as both entrance and exit. Keys to the door to the independent apartment and to the residential care apartment complex shall be supplied to the tenant.” ([Wis. Admin. Code § DHS 89.22](#))

“‘Individual lockable entrance and exit’ means a door that provides access to an independent apartment and is equipped with an individually keyed lock which is operable from both inside and outside the unit and which the tenant can open, close and lock to ensure privacy.” ([Wis. Admin. Code § DHS 89.13](#))

Locks on living unit doors allow the resident to exercise his or her right to privacy and personal choice. Staff in each residential setting should always knock and receive permission prior to entering a resident's living space. DHS expects the residential setting to have a policy in place to ensure that staff always knock and receive permission prior to entering a resident's room or personal living space to respect residents' rights to privacy. Please refer to DHS' [Frequently Asked Questions \(FAQs\) about Door Locks in Adult Long-Term Care Residential Settings](#) for additional lock-related information.

Met Unmet Not Applicable

- Key policy submitted confirm that tenants have their individual right to privacy with their own key to their apartments.
- Staff key policy emphasizes that staff can only enter an apartment with prior permission and must knock first.
- Photos of apartment doors with keyed locks show individual units.

Individuals sharing units have a choice of roommates in that setting.

Compliance within Wisconsin State Standards and Regulations

"Multiple occupancy of an independent apartment shall be limited to a spouse or a roommate chosen at the initiative of the tenant." ([Wis. Admin. Code § DHS 89.22](#))

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance surveyors that residents have choice of roommates (DQA, [F-02138](#), HCBS Compliance Review).

Person-Centered Planning: Family Care Provider Network, I. Access to Providers: "For residential care facilities, evidence of adequate capacity shall include identification of the availability of residential providers offering private rooms, and a process for moving an individual to a private room when one becomes available that is consistent with the member's preferences." ([DHS-MCO Contract, Article VIII, I\(6\)d](#))

Met Unmet Not Applicable

Country Ridge consists of eight (8) individual living units. Tenants can have a spouse and/or can choose a possible roommate to share the apartment.

Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement. [42 CFR § 441.301(c)(4)(vi)(B)(1-3)]

Compliance within State Standards

A tenant has the right "to furnish his or her independent apartment and to maintain personal possessions as space permits as long as the tenant does not unreasonably interfere with the other tenants' choices or endanger the health or safety of the other tenants." (WI Statewide Transition Plan; [Wis. Admin. Code § DHS 89.34](#))

Met Unmet Not Applicable

- Per the tenant agreement and tenant rights agreement, tenants have the right "to furnish his/her apartment and to maintain personal possessions as space permits."
- Photos of tenant apartments show that the tenant decorates each apartment. One tenant, describes her apartment as "cluttered but I love it."

The setting is physically accessible to the individual. [42 CFR § 441.301(c)(4)(vi)(E)]

Compliance within State Standards

"Each independent apartment shall be of adequate size and configuration to permit tenants to carry out, with or without assistance, all the functions necessary for independent living, including sleeping; sitting; dressing; personal hygiene; storing, preparing, serving and eating food; storing clothing and other personal possessions; doing personal correspondence and paperwork; and entertaining visitors." ([Wis. Admin. Code § DHS 89.22](#))

Met Unmet Not Applicable

- Attestation by Country Ridge is that each apartment unit, common areas, dining room, etc. are physically accessible to each resident.
- Photos submitted for accessible entrances, ramps, doorways, bathroom areas show accessible egress.

Operational Distinction

The setting demonstrated meaningful operational distinction between the institution and the community-based setting, such as minimal administrative and financial interconnectedness.

Met Unmet Not Applicable

- Country Ridge has a separate budget and line item allocation formula from Trempealeau Country Health Center.
- Submitted documents demonstrate operational distinction of the Country Ridge CBRF from the Pigeon Falls SNF. Country Ridge has its own budget and other financials demonstrating that there are two separate and distinct lines of business. It has a separate Health records system. CNA staff work in both the SNF and Country Ridge, but their time is allocated between the RCAC and SNF. There is specific training including HCBS training for the CNA staff assigned to the CBRF. Staff is allocated to the CBRF for each two week pay period as:
- Administrative – 8 hours, DNS- 3.2 hours, Social Services – 4 hours, Licensed nursing – 5 hours, CNA - 74 hours, Maintenance – 4 hours, and Housekeeping – 16 hours. An Administrator for the RCAC and the SNF in Pigeon Falls is part of the leadership team for the Trempealeau County Health Care Center.

There is a distinction between staff for the HCBS setting and the institutional setting. Staff working in the HCBS setting receive initial and ongoing training on HCBS settings rule requirements and principles, and person-centered planning.

Met Unmet Not Applicable

- Staff training schedules and training modules submitted that confirm that staff are cross-trained for the HCBS and the SNF if they are employed at both settings.
- Staff orientation checklist submitted for the SNF and the RCAC. Each setting has a separate checklist.
- Resident assistants specifically are hired for Country Ridge, receive HCBS training, and tenant rights training.

DHS Recommendation

DHS finds that [Country Ridge](#) possesses the required home and community-based characteristics, is not isolating in nature, and overcomes the presumption of having institutional qualities.

Please note that these findings are preliminary only and must receive final approval from CMS.

Ongoing Compliance

Wisconsin's Division of Quality Assurance (DQA) will ensure through ongoing compliance reviews that [Country Ridge](#) continues to meet the requirements of the HCBS Settings Rule. The DMS Bureau of Assisted Living (BAL) has incorporated the HCBS settings rule into its current assisted living survey process and activities. ([DQA Implementation of Home and Community-Based Services Settings Rule in Residential Assisted Living Facilities](#))

Waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are certified by the Wisconsin Department of Health Services (DHS) and work within the requirements of contracts with DHS. State licensed settings are subject to unannounced licensing visits, both in response to complaints and during regular oversight visits, by the state licensing authority, or by the entity that certified the provider if not regulated by the state. As part of these periodic licensing or certification reviews, the credentialing entity will also review the setting for continued HCBS compliance. Providers will be required to address any HCBS rule deficiencies.

When HCBS participants are resident in the setting, waiver program care managers are required to have ongoing contact, including face-to-face visits, at which time any areas of concern would be identified and addressed. Each participant in a Medicaid home and community-based waiver program is further protected through the state's long-term care ombudsman program, which has regular access to the assisted living setting. [Wisconsin's Board on Aging & Long Term Care](#): The Board on Aging and Long Term Care advocates for the interests of Wisconsin's long-term care consumers, informs those consumers of their rights and educates the public about health care systems and long-term care. The Board also operates the [Long Term Care Ombudsman](#), and [Volunteer Ombudsman](#) services.



**Home and Community-Based Services (HCBS) Settings Rule
Wisconsin Department of Health Services (DHS)
Heightened Scrutiny Review
Evidentiary Assessment and Summary**

Facility Name Covenant Oaks		Facility Type Community-Based Residential Facility (CBRF)	
Corporate Name (if applicable) Oakwood Lutheran Homes Association		License/Certification # #0008572	County Dane
Facility Address 6165 Mineral Point Road	City Madison	State WI	Zip Code 53705
Primary Contact Name: Kimberly Blum	Primary Contact Direct Phone (incl. area code) 608-230-4414	Primary Contact Email Address:: kimberly.blum@oakwoodvillage.net	
Facility Website Address https://www.oakwoodvillage.net			

Reason for Institutional Presumption

- Settings in a publicly or privately operated facility that provides inpatient institutional treatment. Name of institution:
- Settings in a building on the grounds of, or adjacent to, a public institution. Name of institution:
- Settings with the effect of isolating individuals from the broader community of individuals not receiving HCBS waiver services.

The Centers for Medicare and Medicaid Services' (CMS) HCBS settings rule assumes that certain settings are not home and community-based. If a Wisconsin assisted living facility (setting) meets one of the criteria for institutional presumption as defined above, the DHS Division of Medicaid Services (DMS) conducts a heightened scrutiny review.

DMS believes that [Covenant Oaks](#) has overcome the institutional presumption and meets the criteria of a home and community-based services setting as summarized below.

To reinforce the extent to which Wisconsin's licensing and certification regulations and standards align with and reinforce the HCBS settings rule, the applicable state standard or regulation is included, where applicable, with the compliance review summary below.

Facility Summary:

Covenant Oaks is a senior living facility in Madison, Wisconsin. Part of the services and amenities it offers to older adults consist of 40 senior living and assisted living units. Covenant Oaks has six residents who are supported through [Family Care](#) Medicaid long-term care funding. Covenant Oaks is a memory care setting and is part of a comprehensive campus of services including short-term rehabilitation, senior living apartments, assisted living and memory care. Memory Care at Oakwood Covenant Oaks provides older adults with Alzheimer’s disease or other forms of memory loss with a safe environment supported by compassionate staff. Members of our caring staff are available round-the-clock and strive to help residents remain active and engaged, as well as create a comfortable setting for family and friends to visit. Life Enrichment is planned and scheduled to encourage residents to engage in meaningful experiences.

<https://www.oakwoodvillage.net/our-campuses#university-woods-tour-gallery-13>

The setting is integrated in and supports full access to the greater community [42 CFR § 441.301(c) (4) (I)].

The community considers the setting a part of their community and does not associate the setting with institutional services.

Met Unmet Not Applicable

- Covenant Oaks is part of a large senior living campus for 1,000 residents and described by volunteers, staff and family members as “a gem for services for seniors in the greater Madison, Wisconsin community.”
- Oakwood Village Campus includes a Center for Arts and Education, which draws both residents and community members to a wide variety of events, performances and classes. Additionally, community based senior services are also located at Oakwood Village with senior members from the greater Madison, Wisconsin area accessing services on the campus.
- A Board of Directors comprised of community leaders, family members as well as representatives from 37 Madison area Lutheran churches governs Oakwood Village.
- During the onsite review, the reviewer observed two activity sessions that held at the CBRF, which included family members. An adult male caregiver group observed by the reviewer included both family members as well as community volunteers who support services to this population. The reviewer interviewed three participants who shared specific highlights of working with Covenant Oaks and one participant regularly takes residents out for drives, meals, etc. Group membership is open to both family members, caregivers and public volunteers.

Individuals, to the extent they desire, have opportunities to participate in typical community life activities outside of the setting.

Compliance within Wisconsin State Standards and Regulations:

Person-Centered Planning: The plan must be based on an assessment that addresses the person’s “capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known” and “social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs.” (Summarized from [Wis. Admin. Code § DHS 83.35](#))

Program Services: Community activities. The CBRF shall provide information and assistance to facilitate participation in personal and community activities. The CBRF shall develop, update and make available to all residents, monthly schedules and notices of community activities, including costs. ([Wis. Admin. Code § DHS 83.38\(1\)\(d\)](#))

Family and social contacts: The CBRF shall encourage and assist residents in maintaining family and social contacts. (Wis. Admin. Code § DHS 83.38(1)(e))

Met Unmet Not Applicable

Documents reviewed: [Program materials](#), [resident welcome letter](#), [activity calendars](#)

- “All Covenant Oaks residents are able to attend any activity on campus or off” as they desire. Residents go on outings, attend religious services, go shopping, dine out at local restaurants, and stay overnights with families.
- “The voice of residents and their families is of upmost concern for us. We request that all incoming residents complete a “Life Story” to get to know more about a resident’s background, preferences and routines...” “We also have a quarterly Family Focus meeting for residents and their families to provide feedback, concerns or questions regarding Covenant Oaks. We also have an open door policy for all of our customers and have administration available via phone twenty-four hours a day.”

Program Statement and materials - residents may utilize the following community resources, among others:

- Transportation services
- Dane County Social Services
- City Park/Recreation Department
- *Life Enrichment calendar* December 2019 provided – shows numerous activities residents can participate in onsite.

Onsite Review of materials and person centered plans:

- “Our most important goals for the residents are maintaining a right to privacy, personal choice, and control, encouraging the highest level of independence... encourage and promote activity interests both at Covenant Oaks and the community.” <https://www.oakwoodvillage.net/university-woods>

Activities are individualized or include more than just setting-based group activities

Met Unmet Not Applicable

- Program materials state that the facility provides services that promote “individuality, encourage autonomy and freedom,” among others. Residents have the freedom to freely “Move about in the environment and free to choose how they wish to spend their time when given a variety of therapeutic and leisure options that focus on their abilities instead of their disabilities.”
- “Encourage and promote resident participation in activities that are of interest.”
- A resident’s Care Plan showing the resident has the freedom, as all residents, to make own choices about whether or not to participate in community activities.
- Extensive in-house and community programming planned for the residents, including lectures, art presentations, exercise classes, lectures, movies
- As part of the HS review, the reviewer reviewed five (5) files of current residents at Covenant Oaks with particular attention paid to their Individual Care Plans. Covenant Oaks utilizes a comprehensive care-planning tool that not only outlines the physical and medical needs of the residents but also pays close attention to the emotional, social needs of the resident. The care plan, updated frequently, complements the “Biographical” information that a loved one prepares upon admission to Covenant Oaks. During the review, I had the opportunity to spend time with a husband and his wife residing in Covenant Oaks who has lived there for over 6 years with advanced Alzheimer’s disease. He is actively involved in the male caregiver group and talked openly about the care and support his wife receives in addition to the care and supports that he receives. Activities are scheduled and planned based on individual needs, which is critical for Covenant Oaks Memory Care.

Summary of Individual Interviews: The reviewer met with 5 residents and asked each resident a series of questions including:

- a. How did you arrive at Covenant Oaks? Did you select this setting/
- b. Are you involved in and participate in activities at Covenant Oaks? Is there sufficient communication about activities?
- c. Do you have access to food and snacks during the day? Choices in meals?
- d. Can family members visit at any time? Can you plan your entire day?

The setting supports access to community activities through its own transportation or coordination of transportation options.

Met Unmet Not Applicable

-
- Covenant Oaks has a formal transportation policy that outlines transportation options, which include the two (2) agency vans for appointments; public taxi and ride share services; volunteer drivers for appointments; training on public transportation options in the greater Madison, Wisconsin area.
 - As part of the resident interviews during the onsite review, the reviewer asked each resident about transportation to appointments, activities, etc. and all responses were positive to an abundance of transportation resources.
-

Individuals, if they choose, have opportunities to seek employment and work in competitive integrated settings.

Compliance within Wisconsin State Standards and Regulations:

Person-Centered Planning:

The plan must be based on an assessment that addresses the person's "capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known" and "social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs." ([WI Statewide Transition Plan](#); Summarized from [Wis. Admin. Code § DHS 83.35](#))

From contract between DHS and specific MCOs:

V. Care Management:

C. Assessment and Member-Centered Planning Process

C.1. Comprehensive Assessment

C.1.(c) Documentation: The comprehensive assessment will include documentation by the IDT staff of:

C.1.(c)(viii) An exploration with the member of the member's preferences and opportunities for community integration including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community.

C.3. Member-Centered Planning

C.3.(c)(iv)(g) The setting in which the member resides supports integration into 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.

VII. Services

A. General Provisions

1. Comprehensive Service Delivery System

c. Serve to maintain community connections, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, and that are cost effective.

Addendum I

It is the DHS's "expectation under this contract that benefits will be fully integrated and will afford options that foster opportunities for interaction and integration into 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 while supporting each member's individual outcomes and recognizing each member's preferences."

Met Unmet Not Applicable

Although most of the residents of Covenant Oaks are retired, and many have some memory care issues, each resident is encouraged to continue their involvements in the community either through volunteering, participation in events, etc.

Individuals are able to control their personal resources.

Compliance within Wisconsin State Standards and Regulations:

Every resident in a community-based residential facility has the right to “manage the resident’s own financial affairs, unless the resident delegates, in writing, such responsibility to the facility and the facility accepts the responsibility or unless the resident delegates to someone else of the resident’s choosing and that person accepts the responsibility.” (Statewide Transition Plan; [Wis. Stat. § 50.09](#))

Met Unmet Not Applicable

Covenant Oaks Resident Handbook makes clear that each resident keeps their own funds, utilizes their own bank or if they choose, they may voluntarily deposit funds in the account managed by the setting and access to that account would be available during business hours and/or with prior arrangement.

Choice, Independence, and Person-Centered Planning

The setting is selected by the individual from among setting options including non-disability specific settings. [42 CFR § 441.301(c)(4)(ii)]

Compliance within Wisconsin State Standards and Regulations:

Wisconsin has protections in place for Medicaid waiver participants which ensure they understand their choices. DHS waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are responsible for discussing choice of service settings with the waiver participant and family/guardian to locate the most suitable provider setting, including a discussion of living in a non-disability specific setting. In practice, the waiver agencies are complying with this requirement, and documenting and monitoring the choice of settings in the member-centered plan or IRIS support and service plan, as applicable.

In Wisconsin, the choice of setting requirement is not the initial responsibility of the provider setting. Rather the choice of setting takes place through the person-centered planning process at the waiver agency level. Waiver agencies are certified by DHS and work within the requirements of contracts with DHS. Through ongoing monitoring, Wisconsin will ensure that individuals maintain the right to choose where they reside.

Additionally, Wisconsin has protections in place through *Pre-Admission Consultation (PAC)*: <https://www.dhs.wisconsin.gov/adrc/pros/pac.htm>
“Pre-admission consultation is a service provided by Aging and Disability Resource Centers (ADRCs) to individuals who are in the process of considering or making a decision about the need to move out of his or her home in order to receive the help they need to remain independent and safe. Sometimes people are unaware that there are services and supports that can be provided right in their own home, often making a move unnecessary. Those who want to move into a nursing home or assisted living facility (such as a community based residential facility or residential care apartment complex), can find it difficult to know which facility would be the best for them or a loved one.”

Met Unmet Not Applicable

A review of person-centered plans for Covenant Oaks that the resident chose the setting from a choice of settings options, including non-disability specific settings. Additionally, the reviewer confirms that at each annual review, choice of placement is asked of each resident.

The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and resources available for room and board. [42 CFR § 441.301(c)(4)(ii)]

Compliance within Wisconsin State Standards and Regulations:

“COMPREHENSIVE INDIVIDUAL SERVICE PLAN Individual service plan review. Annually or when there is a change in a resident's needs, abilities or physical or mental condition, the individual service plan shall be reviewed and revised based on the assessment under sub. (1). All reviews of the individual service plan

shall include input from the resident or legal representative, case manager, resident care staff, and other service providers as appropriate.” ([Wis. Admin. Code § DHS 83.35 \(1\)\(d\)](#))

Met Unmet Not Applicable

- The Resident Handbook makes clear that Covenant Oaks Assisted Living *offers each individual the freedom to live as active lifestyle that they desire*”. Compliance within the Provider submitted documentation confirms that within the senior community, each individual can enjoy in house services, meal and complimentary services, dining options and a robust activity program planned for in house and external opportunities.
- Person centered planning supports that the setting is the individual’s home and should be thought of and supported with a focus on individuality, privacy, needs, likes and preferences.
- Dining options, which include a café, sandwich shop, dining room, were observed during the onsite review and interviews conducted with the residents indicate that residents have a variety of choices for dining and access to food options at any time.
- Each resident is also free to decorate their apartments and during the onsite review, a sampling of the apartments revealed personal choice in furnishings.

The setting facilitates choice regarding services and supports, and who provides them. Individuals have a choice in selecting their service providers, and are not reliant on services from the institution to the exclusion of other community-based options. Individuals can choose to receive services in the community to the same degree as individuals not receiving Medicaid HCBS. [42 CFR § 441.301(c)(4)(v)].

Compliance within State Standards:

Before or at the time of admission, the CBRF shall provide written information regarding services available and the charges for those services to each resident or the resident’s legal representative. This information shall include any charges for services not covered by the daily or monthly rate...” (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.29](#))

Person-Centered Planning:

1. “Options of services, providers, and settings, including non-disability specific settings, are offered to participants in all Wisconsin HCBS programs.” (WI Statewide Transition Plan; Summarized from Wis. HCBS waivers, waiver-specific contracts, and policy documents.)
2. Residents have the right to “use the licensed, certified or registered provider of health care and pharmacist of the resident’s choice.” ([Wis. Stat. § 50.09](#))

Met Unmet Not Applicable

- Review of the Covenant Oaks Assisted Living agreement (Page 2 E) - *Selection of Physician and other health care and service options*- indicate that the resident has the right to choose any licensed, certified or registered health care professional. There are healthcare and medical providers at the Oakwood Terrace Campus that the resident can choose but if they utilize outside services, Covenant Oaks Assisted Living makes available transportation for those appointments.
- The Resident Handbook also cites that residents may *need to contract with third party (healthcare and professional) services in order to maintain each residents’ highest quality of life and degree of independence*. Residents are free to utilize services as they so choose.
- Additionally, the CBRF will allow for residents to contract with home health and other third party service providers that support and maintain their residences. During the onsite review, the reviewer spoke with family members who validated that their loved ones were free to select healthcare providers of their own choice.

The setting optimizes, but does 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 [42 CFR § 441.301(c)(4)(iv)]

Compliance within Wisconsin State Standards and Regulations:

Rights: Licensees must protect the civil rights of residents. Residents have the right to make decision relating to care, activities, daily routines, and other aspects of life that enhance the resident’s self-reliance and support the resident’s autonomy and decision-making. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.32](#))

Person-Centered Planning: The plan must be based on an assessment that addresses the person's capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known, and social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts, and vocational needs. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.35](#))

"The CBRF shall teach residents the necessary skills to achieve and maintain the resident's highest level of functioning." The CBRF shall provide or arrange services adequate to meet the needs of the residents including providing leisure time activities, facilitating participation in community activities, and encouraging and assisting residents in maintaining family and social contacts. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.38](#))

Rights: Residents have the right to make decisions relating to care, activities, daily routines, and other aspects of life that enhance the resident's self-reliance and support the resident's autonomy and decision making, and have the least restrictive conditions necessary to achieve the purposes of the resident's admission. The CBRF may not impose a curfew, rule, or other restriction on a resident's freedom of choice. (Statewide Transition Plan; Summarized from Wis. Admin. Code § DHS 83.32)

Met Unmet Not Applicable

- Review of the Resident Handbook, Resident Rights Policy and Senior Living Policies support the right of each resident to enjoy individual choice, autonomy and independence in making choices about their activities, décor, living arrangements and Covenant Oaks Assisted Living's philosophy and approach is to *focus on the lifestyles and values of seniors and respect for individuality, independence, dignity, choice, privacy and a strong sense of well-being.*
- A review of five (5) person-centered plans supported individual choice in activities, hobbies, religious observance, etc. In addition to person-centered plans, each resident has a wellness plan and an activity/recreational plan that assesses and documents interests, activities, involvement, etc.
- During the onsite review, the reviewer spoke with a group of residents and asked specific questions regarding choice, daily activities, lifestyle and involvement and the consensus was that there were so many opportunities to engage in if you choose to do so. In fact, one resident said that the choices were "overwhelming" and there is more to do on a daily basis than the resident was doing prior to residing at the facility.

Individuals have the freedom and support to control their own schedules and activities [42 CFR § 441.301(c)(4)(vi)(C)]

Compliance within Wisconsin State Standards and Regulations:

Person-Centered Planning: The plan must be based on an assessment that addresses the person's "capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known" and "social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs." (Statewide Transition Plan, pg. 72; Summarized from Wis. Admin. Code § DHS 83.35)

Rights: Licensees must protect the civil rights of residents. Residents have the right to make decision relating to care, activities, daily routines, and other aspects of life that enhance the resident's self-reliance and support the resident's autonomy and decision-making. (Summarized from Wis. Admin. Code § DHS 83.32)

Met Unmet Not Applicable

- The Resident Handbook outlines and confirms the opportunities for each resident to have- *freedom to live as active a lifestyle as desired.* To that end, Covenant Oaks Assisted Living offers scheduled group outings, entertainment and activities, worship opportunities, wellness programs, etc.
- Covenant Oaks offers a home to each resident, encourages, and supports that each resident has the right to choose when they eat, when they sleep, whom they visit, who visits them and what they choose to engage in. Dining options are offered to allow made to order menus, snack and café options.
- Reviewer was able to meet with a crochet recreational group and each resident indicated that they had a variety of activities, experiences, etc. that were available to them and that they could choose and maintain their own schedules.

The setting ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint [42 CFR § 441.301(c)(4)(iii)]

Compliance within State Standards:

Rights: Residents have the right to be “treated with courtesy, respect and dignity by all employees of the facility and other providers of health care and pharmacists with whom the resident comes in contact.” ([Statewide Transition Plan](#), pg. 72; Summarized from [Wis. Stat. § 50.09](#))

Residents must be provided with “physical and emotional privacy in treatment, living arrangements, and in caring for personal needs” including, privacy for visits by spouse or domestic partner, or to share a room with a spouse or domestic partner if both are residents for the same facility; privacy concerning health care; confidentiality of health and personal records; and the right to approve or refuse their release to any individual outside the facility. (Statewide Transition Plan, pg. 72; Summarized from Wis. Stat. § 50.09)

“Any form of coercion to discourage or prevent a resident or the resident’s legal representative from exercising any of the rights under this subchapter is prohibited. Any form of retaliation against a resident or the resident’s legal representative for exercising any of the rights in this subchapter, or against an employee or any other person who assists a resident or the resident’s legal representative in the exercise of any of the resident rights in this subchapter, is prohibited.” (Statewide Transition Plan, pg. 72; Wis. [Admin. Code § DHS 83.32](#))

In addition, each resident shall have all of the following rights: freedom from mistreatment; freedom from seclusion; freedom from chemical restraint; and freedom from physical restraints, except upon prior review and approval by DHS upon written authorization from the resident’s primary physician or advanced practice nurse prescriber. DHS may place conditions on the use of a restraint to protect the health, safety, welfare, and rights of the resident. (Statewide Transition Plan; Summarized from Wis. Admin. Code § DHS 83.32)

Met Unmet Not Applicable

- The Resident Rights policy addresses and ensures each of the requirements of 42 CFR § 441.301(c)(4)(iii)- These requirements are confirmed through staff training and updates and clearly comply with all applicable federal, state and local laws regarding abuse/neglect, etc. As part of this policy, each resident is encouraged to sign the residents’ rights protocol that ensures the facilities compliance with applicable statutes.
- New employee orientation, employee, and staff orientation checklists include sections on privacy, confidentiality, resident rights, abuse/neglect prevention, mandated reporting requirements and a Covenant Oaks Assisted Living *Code of Ethics*.

Individuals are able to have visitors of their choosing at any time [42 CFR § 441.301(c)(4)(vi)(D)]

Compliance within Wisconsin State Standards and Regulations:

Rights: Residents have the right to private and unrestricted communications with their family, physician or other medical provider, attorney, and any other person, unless documented as medically contraindicated. The right to private and unrestricted communications includes the right to... reasonable access to a telephone for private communications; and the opportunity for private visits. (WI Statewide Transition Plan; Summarized from Wis. Stat. § 50.09)

Met Unmet Not Applicable

- Resident Handbook/Resident Rights Section confirms the “Right to Private and Unrestricted Communication:”- Each resident has the right to private visitors and private visits as part of a reasonable visitor policy. The handbook asserts that the resident is responsible for guests that visit and that the setting will have defined guest rules.
- During the onsite review, the reviewer was able to look at the visitor’s log; confirm activities and sign in/out sheets.

Individuals have access to food at any time

Compliance within Wisconsin State Standards and Regulations:

The CBRF must provide each resident with palatable food that meets the recommended dietary allowance based on current guidelines, including at least three meals a day and a snack in the evening, or more often based on the resident’s dietary needs. If a resident is away during meal time, the CBRF shall offer food

to the resident on the resident's return. The CBRF shall make reasonable adjustments to the menu for individual resident likes, habits, customs, condition, and appetites. (Summarized from Wis. Admin. Code § DHS 83.41)

Met Unmet Not Applicable

There are varieties of options for residents at Covenant Oaks for their meals and access to dining facilities. The main dining room provides three meals a day and each meal plan has optional choices based on the resident's likes and dietary needs. Meals can also be set aside and brought to the resident's apartments and there is a snack bar and a café in operation on campus.

Individuals occupy the setting under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity [42 CFR § 441.301(c)(4)(vi)(A)]

Compliance within Wisconsin State Standards and Regulations:

"Each resident shall have a written agreement that is signed by and provided to each party. The agreement includes a description of the space to be provided to the resident, the agreed upon rate, a statement of the resident's rights and the terms of termination, including timeframes. The agreement is updated annually." ([WI Statewide Transition Plan](#), pg. 77; [Wis. Admin. Code § DHS 83.29](#))

The agreement must include terms for resident notification to the CBRF of voluntary discharge, and reasons and notice requirements for involuntary discharge or transfer, including transfers within the CBRF. (WI Statewide Transition Plan, pg. 77; Summarized from Wis. Admin. Code § DHS 83.31)
State licensed settings are subject to unannounced licensing visits, both in response to complaints and during regular oversight visits. Through ongoing HCBS monitoring, Wisconsin will ensure that individuals maintain the right to make such choices while residing in this state-licensed community-based residential facility. Additionally, the state's long-term care ombudsman program has regular access to the setting.

Met Unmet Not Applicable

- Provider submitted documents support compliance of landlord tenant laws that "Covenant Oaks/Oakwood Village Assisted Living is responsible to be familiar with and comply with all requirements of applicable landlord tenant statutes for their local community. Covenant Oaks Assisted Living, through its Occupancy Agreement in its Resident Handbook that the setting will comply with all applicable laws including the Fair Housing Act.
- At the onsite review, sample leases and admission agreements confirmed to be in compliance in accordance with HCBS. The occupancy agreement confirms that individuals residing at Covenant Oaks Assisted Living occupy their residence under a legally enforceable occupancy agreement and that the individual enjoys the same responsibilities and protections from eviction by statute of their community. Covenant Oak's Assisted Living agreement meets the licensing requirements of WI Administrative Code DHS 83.29.

Overcoming Institutional Presumption

The setting demonstrated a meaningful physical distinction between the HCBS setting and the institutional setting, including separate entrances and signage, physical divisions, and differences in décor.

Met Unmet Not Applicable

- Documents Submitted: Cover letter for Covenant Oaks, Campus Map with photos, policies for keys and individual units, photos of individual apartments and décor.
- Campus Map confirms that Covenant Oaks has its own signage and its own entrance.
- HCBS written policy reviewed that states: "All resident rooms have a lockable entrance and can be locked from inside. The guidelines for staff to enter a resident apartment is part of the "key acceptance policy".

- Photos submitted of interiors of apartments, kitchens, activity areas, lounge and coffee room that confirm that the décor is home like and different from the rehabilitation and nursing centers.
- The reviewer confirmed at the onsite review that Covenant Oaks provides a beautiful, home-like setting for its residents. The setting, divided into 4 houses, each with their own kitchen, common areas and activity areas.

Each individual has privacy in their sleeping or living unit.

Compliance within Wisconsin State Standards and Regulations:

Residents must be provided with “physical and emotional privacy in treatment, living arrangements, and in caring for personal needs” including, privacy for visits by spouse or domestic partner, or to share a room with a spouse or domestic partner if both are residents for the same facility; privacy concerning health care; confidentiality of health and personal records; and the right to approve or refuse their release to any individual outside the facility. (Statewide Transition Plan; Summarized from Wis. Stat. § 50.09)

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance surveyors that the setting (DQA, [F-02138](#), HCBS Compliance Review):

1. Provides lockable key entry doors on all resident rooms, and individual keys to all residents.
2. Has a policy ensuring that staff uses facility keys to enter a resident’s room only under circumstances agreed upon with the resident.

Met Unmet Not Applicable

HCBS lock and privacy policy submitted for review. Confirmation that each resident has the right to privacy and personal choice. Verification of locked doors and policy at onsite review. Residents are issued a key policy upon admission and the policy requires a signature between the resident and the facility.

Individual living units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.

Compliance within Wisconsin State Standards:

Locks on living unit doors allow the resident to exercise his or her right to privacy and personal choice. Staff in each residential setting should always knock and receive permission prior to entering a resident’s living space. DHS expects the residential setting to have a policy in place to ensure that staff always knock and receive permission prior to entering a resident’s room or personal living space to respect residents’ rights to privacy. Please refer to DHS’ [Frequently Asked Questions \(FAQs\) about Door Locks in Adult Long-Term Care Residential Settings](#) for additional lock-related information.

Met Unmet Not Applicable

HCBS lock and privacy policy submitted for review. Confirmation that each resident has the right to privacy and personal choice. Verification of locked doors and policy at onsite review. Residents are issued a key policy upon admission and the policy requires a signature between the resident and the facility.

Individuals sharing units have a choice of roommates in that setting.

Compliance within Wisconsin State Standards and Regulations:

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance surveyors that residents have choice of roommates (DQA, [F-02138](#), HCBS Compliance Review):

Person-Centered Planning: Family Care Provider Network, I. Access to Providers: “For residential care facilities, evidence of adequate capacity shall include identification of the availability of residential providers offering private rooms, and a process for moving an individual to a private room when one becomes available that is consistent with the member’s preferences.” ([DHS-MCO Contract, Article VIII, I\(6\)d](#))

Met Unmet Not Applicable

If there were a roommate policy at Covenant Oaks, there would be choice but it is not applicable.

Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement. [42 CFR § 441.301(c)(4)(vi)(B)(1-3)]

Compliance within Wisconsin State Standards and Regulations

Every resident in a community-based residential facility shall have the right to retain and use personal clothing and effects and to retain, as space permits, other personal possessions in a reasonably secure manner. (Summarized from Wis. Stat. § 50.09)

Met Unmet Not Applicable

- The lease agreement and residential agreement, part of the Admission agreement, confirms that each individual has the right to furnish and decorate their apartments as they so choose.
- Confirmation of individual choice in décor confirmed through photos submitted and a tour of living units at the onsite review.

The setting is physically accessible to the individual [42 CFR § 441.301(c)(4)(vi)(E)]

Compliance within Wisconsin State Standards and Regulations

The bedroom and congregate dining and living area for any resident requiring a specified level of care and who is blind or not fully ambulatory shall be on the first floor. (Summarized from Wis. Admin. Code § DHS 83.50)

Bedrooms shall be designed and equipped to allow residents to achieve the highest level of independent functioning and shall be fully accessible to the resident. Within the bedroom, each resident shall have, or be provided with a closet or wardrobe with clothes hanging rods and shelves, and drawer space adequate to reasonably meet the needs of the resident. The bedroom shall have adequate accessible space for a resident's wheelchair or other adaptive or prosthetic equipment. (Summarized from Wis. Admin. Code § DHS 83.54)

Met Unmet Not Applicable

Covenant Oaks is physically accessible.

The living unit is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services.

- The individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the applicable landlord/tenant laws.
- The State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law [42 CFR § 441.301(c)(4)(vi)(A)].

Compliance within Wisconsin State Standards and Regulations:

"Each resident shall have a written agreement that is signed by and provided to each party. The agreement includes a description of the space to be provided to the resident, the agreed upon rate, a statement of the resident's rights and the terms of termination, including timeframes. The agreement is updated annually." ([Wis. Admin. Code § DHS 83.29](#))

The agreement must include terms for resident notification to the CBRF of voluntary discharge, and reasons and notice requirements for involuntary discharge or transfer, including transfers within the CBRF. (Summarized from [Wis. Admin. Code § DHS 83.31](#))

Met Unmet Not Applicable

Covenant Oaks meets the licensing requirements of [42 CFR § 441.301(c) (4) (VI) (E)]. Residents must meet the standards in the living arrangements agreement and agree to the terms of Admission/Retention and Discharge criteria.

Operational Distinction

The setting demonstrated meaningful operational distinction between the institution and the community-based setting, such as minimal administrative and financial interconnectedness.

Met Unmet Not Applicable

- Statement of Financial activities confirm that there is minimal financial interconnectedness. Each setting at Oakwood Village has its own financial budgets, organizational chart, and costs allocations.
- Oakwood Village organizational chart reflects separate administrative staff for each of its settings and the staffing schedules confirm that staff do not work between the settings.
- At the onsite review, the reviewer met with the CFO and the Administrative team and materials were provided that confirm a meaningful distinction between all of the settings.

There is a distinction between staff for the HCBS setting and the institutional setting. Staff working in the HCBS setting receive initial and ongoing training on HCBS settings rule requirements and principles, and person-centered planning.

Met Unmet Not Applicable

- Cover letter outlining staffing for Covenant Oak and Oakwood Village reviewed. As stated in the letter, “All caregiving staff are resident assistants and have received all State of Wisconsin required CBRF training and as part of the curriculum, all staff are trained in HCBS settings requirements. “
- Each staff is subject to the *Resident Assistant Master Skill Inventory* and a review of this document during the onsite visit confirms that there is HCBS specific training with a strong person-centered planning emphasis.

DHS Recommendation

DHS finds that *Covenant Oaks* possesses the required home and community-based characteristics, is not isolating in nature, and overcomes the presumption of having institutional qualities.

Please note that these findings are preliminary only and must receive final approval from CMS.

In accordance with federal requirements, all compliance results will be made public by DHS. The decision will appear on the subsequent upload of facility information to DHS websites, including the [DQA Provider Search webpage](#) and the provider directories available at the [Consumer Guide to Health Care – Finding and Choosing an Assisted Living Facility webpage](#).

Ongoing Compliance

Wisconsin’s Division of Quality Assurance (DQA) will ensure through ongoing compliance reviews that *Covenant Oaks* continues to meet the requirements of the HCBS Settings Rule. The DMS Bureau of Assisted Living (BAL) has incorporated the HCBS settings rule into its current assisted living survey process and activities. ([DQA Implementation of Home and Community-Based Services Settings Rule in Residential Assisted Living Facilities](#))

Waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are certified by the Wisconsin Department of Health Services (DHS) and work within the requirements of contracts with DHS. State licensed settings are subject to unannounced licensing visits, both in response to complaints and during regular oversight visits, by the state licensing authority, or by the entity that certified the provider if not regulated by the state. As part of these periodic licensing or certification reviews, the credentialing entity will also review the setting for continued HCBS compliance. Providers will be required to address any HCBS rule deficiencies.

When HCBS participants are resident in the setting, waiver program care managers are required to have ongoing contact, including face-to-face visits, at which time any areas of concern would be identified and addressed. Each participant in a Medicaid home and community-based waiver program is further protected

through the state's long-term care ombudsman program, which has regular access to the assisted living setting. [Wisconsin's Board on Aging & Long Term Care](#): The Board on Aging and Long Term Care advocates for the interests of Wisconsin's long-term care consumers, informs those consumers of their rights and educates the public about health care systems and long-term care. The Board also operates the [Long Term Care Ombudsman](#), and [Volunteer Ombudsman](#) services.



**Home and Community-Based Services (HCBS) Settings Rule
Wisconsin Department of Health Services (DHS)
Heightened Scrutiny Review – Community-Based Residential Facility
Evidentiary Assessment and Summary**

Facility Name Crest View Great Lakes		Facility Type Community-Based Residential Facility (CBRF)	
Corporate Name (if applicable) Mile Bluff Medical Center		License/Certification # 0009594	County Juneau
Facility Address 612 View Street	City New Lisbon	State WI	Zip Code 53950
Primary Contact Name: Jennifer Brandau	Primary Contact Direct Phone (incl. area code) 608-562-3667	Primary Contact Email Address:: jbrandau@milebluff.com	
Facility Website Address https://www.milebluff.com/our-services/assisted-living/			

Reason for Institutional Presumption

- Settings in a publicly or privately operated facility that provides inpatient institutional treatment. Name of institution: [Crest View Nursing & Rehabilitation Center](#)
- Settings in a building on the grounds of, or adjacent to, a public institution. Name of institution:
- Settings with the effect of isolating individuals from the broader community of individuals not receiving HCBS waiver services.

The Centers for Medicare and Medicaid Services' (CMS) HCBS settings rule assumes that certain settings are not home and community-based. If a Wisconsin assisted living facility (setting) meets one of the criteria for institutional presumption as defined above, the DHS Division of Medicaid Services (DMS) conducts a heightened scrutiny review.

DMS believes that [Crest View Great Lakes](#) has overcome the institutional presumption and meets the criteria of a home and community-based services setting as summarized below.

To reinforce the extent to which Wisconsin's licensing and certification regulations and standards align with and reinforce the HCBS settings rule, the applicable state standard or regulation is included, where applicable, with the compliance review summary below.

Facility Summary

Crest View Great Lakes is a CBRF supporting persons with dementia and special needs. It is part of the Mile Bluff Medical Center located in New Lisbon, Wisconsin. The facility has eight private and two semi-private rooms. The resident capacity at Crest View Great Lakes is 12, with five residents currently supported through [Family Care](#) home and community-based. Great Lakes has a home-like environment, and strives to promote socialization and interaction for its residents. There is a common living area, along with a kitchen, dining area, outside patio and garden. Crest View Great Lakes' *Main Street* offers a beauty shop, library, and sidewalk café. The main dining room is available for worship services and community events.

The setting is integrated in and supports full access to the greater community [42 CFR § 441.301(c) (4) (i)].

The community considers the setting a part of their community and does not associate the setting with institutional services.

Met Unmet Not Applicable

- Testimonials from three community volunteers, including the local librarian, confirm that Crest View Great Lakes is a vital resource in the area and many folks have had their close family members and friends live there.
- Crest View Great Lakes is part of a larger campus, Mile Bluff, which includes a rehabilitation center and nursing facility. Crest View Great Lakes is seen as a home-like setting in the greater New Lisbon community.

Individuals, to the extent they desire, have opportunities to participate in typical community life activities outside of the setting.

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning: The plan must be based on an assessment that addresses the person's "capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known" and "social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs." (Summarized from [Wis. Admin. Code § DHS 83.35](#))

Program Services: Community activities. The CBRF shall provide information and assistance to facilitate participation in personal and community activities. The CBRF shall develop, update and make available to all residents, monthly schedules and notices of community activities, including costs. ([Wis. Admin. Code § DHS 83.38\(1\)\(d\)](#))

Family and social contacts: The CBRF shall encourage and assist residents in maintaining family and social contacts. (Wis. Admin. Code § DHS 83.38(1)(e))

Met Unmet Not Applicable

- Crest View Great Lakes' marketing and program materials provide documentation that demonstrates that people without disabilities in the community consider Crest View Great Lakes to be part of their community.
- Attachment C of the brochure indicates that Crest View Great Lakes provides assistance for those who need help and support with daily activities but do not require skilled nursing. Individuals are encouraged to maintain a high level of independence and staff are available 24 hours for support.
- As part of person-centered planning and program services, Crest View Great Lakes encourages participation in outings with the resident's family and friends, appointments in the community, church attendance, dining out, etc.
- Review of activity calendars indicate that activities are scheduled in the community. There is a van to provide for local activities, or alternate transportation can be arranged. Monthly calendars were reviewed reflecting quite a few community choices and events for residents to participate in.

Activities are individualized or include more than just setting-based group activities

Met Unmet Not Applicable

- Based on review of five person-centered plans, activities, choices, hobbies are included in the person-centered plan. Residents have access to a daily schedule of events and they can decide what their involvement will be.

The setting supports access to community activities through its own transportation or coordination of transportation options.

Met Unmet Not Applicable

- Crest View Great Lakes has a formal transportation policy that outlines transportation options, which include one agency van for appointments; public taxi and ride share services; volunteer drivers for appointments; training on public transportation options in the greater New Lisbon, Wisconsin area.
- Crest View Great Lakes encourages residents to arrange for their own transportation to see friends, family, and the staff is also available to assist residents with coordinating transportation.

Individuals, if they choose, have opportunities to seek employment and work in competitive integrated settings.

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning:

The plan must be based on an assessment that addresses the person’s “capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known” and “social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs.” ([WI Statewide Transition Plan](#); Summarized from [Wis. Admin. Code § DHS 83.35](#))

From contract between DHS and specific MCOs:

V. Care Management:

C. Assessment and Member-Centered Planning Process

C.1. Comprehensive Assessment

C.1.(c) Documentation: The comprehensive assessment will include documentation by the IDT staff of:

C.1.(c)(viii) An exploration with the member of the member’s preferences and opportunities for community integration including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community.

C.3. Member-Centered Planning

C.3.(c)(iv)(g) The setting in which the member resides supports integration into 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.

VII. Services

A. General Provisions

1. Comprehensive Service Delivery System

c. Serve to maintain community connections, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, and that are cost effective.

Addendum I

It is the DHS’s “expectation under this contract that benefits will be fully integrated and will afford options that foster opportunities for interaction and integration into 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 while supporting each member’s individual outcomes and recognizing each member’s preferences.”

Met Unmet Not Applicable

Although the majority of residents at Crest View Great Lakes are retired, each resident is encouraged to continue their previous involvement in the community through either volunteering or participation in community events.

Individuals are able to control their personal resources.

Compliance within Wisconsin State Standards and Regulations

Every resident in a community-based residential facility has the right to “manage the resident’s own financial affairs, unless the resident delegates, in writing, such responsibility to the facility and the facility accepts the responsibility or unless the resident delegates to someone else of the resident’s choosing and that person accepts the responsibility.” (Statewide Transition Plan; [Wis. Stat. § 50.09](#))

Met Unmet Not Applicable

- The *Personal Trust Account Agreement* within the *Admission Agreement* allows residents to set up their own resource fund account or, if they choose, they can request that Crest View Great Lakes establish an account for them. This account provides access to funds on a 24-hour basis.
- Review of submitted person-centered plans confirm that residents elect and sign up for personal resource accounts.

Choice, Independence, and Person-Centered Planning

The setting is selected by the individual from among setting options including non-disability specific settings. [42 CFR § 441.301(c)(4)(ii)]

Compliance within Wisconsin State Standards and Regulations

Wisconsin has protections in place for Medicaid waiver participants which ensure they understand their choices. DHS waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are responsible for discussing choice of service settings with the waiver participant and family/guardian to locate the most suitable provider setting, including a discussion of living in a non-disability specific setting. In practice, the waiver agencies are complying with this requirement, and documenting and monitoring the choice of settings in the member-centered plan or IRIS support and service plan, as applicable.

In Wisconsin, the choice of setting requirement is not the initial responsibility of the provider setting. Rather the choice of setting takes place through the person-centered planning process at the waiver agency level. Waiver agencies are certified by DHS and work within the requirements of contracts with DHS. Through ongoing monitoring, Wisconsin will ensure that individuals maintain the right to choose where they reside.

Additionally, Wisconsin has protections in place through *Pre-Admission Consultation (PAC)*: <https://www.dhs.wisconsin.gov/adrc/pros/pac.htm>

“Pre-admission consultation is a service provided by Aging and Disability Resource Centers (ADRCs) to individuals who are in the process of considering or making a decision about the need to move out of his or her home in order to receive the help they need to remain independent and safe. Sometimes people are unaware that there are services and supports that can be provided right in their own home, often making a move unnecessary. Those who want to move into a nursing home or assisted living facility (such as a community based residential facility or residential care apartment complex), can find it difficult to know which facility would be the best for them or a loved one.”

Met Unmet Not Applicable

- A review of person-centered plans confirms that Crest View Great Lakes was selected from a choice and variety of setting options, including non-disability specific settings. Additionally, documentation of annual review of choice of settings indicate that this setting continues to be the setting of choice for the individual.
- A review the signature pages from five person-centered support plans confirms the discussions that took place during their annual review, including that Crest View Great Lakes continues to be the setting of choice.

- Resident interviews conducted during the onsite review included a question regarding choice of settings. Each resident interviewed confirmed that they was actively involved in yearly planning and able to exercise preference for setting.

The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and resources available for room and board. [42 CFR § 441.301(c)(4)(ii)]

Compliance within Wisconsin State Standards and Regulations

“COMPREHENSIVE INDIVIDUAL SERVICE PLAN Individual service plan review. Annually or when there is a change in a resident's needs, abilities or physical or mental condition, the individual service plan shall be reviewed and revised based on the assessment under sub. (1). All reviews of the individual service plan shall include input from the resident or legal representative, case manager, resident care staff, and other service providers as appropriate.” ([Wis. Admin. Code § DHS 83.35 \(1\)\(d\)](#))

Met Unmet Not Applicable

Administrative policy on person-centered planning was reviewed and confirms that resident plans are based on choice, needs and preferences.

The setting facilitates choice regarding services and supports, and who provides them. Individuals have a choice in selecting their service providers, and are not reliant on services from the institution to the exclusion of other community-based options. Individuals can choose to receive services in the community to the same degree as individuals not receiving Medicaid HCBS. [42 CFR § 441.301(c)(4)(v)].

Compliance within Wisconsin State Standards and Regulations

Before or at the time of admission, the CBRF shall provide written information regarding services available and the charges for those services to each resident or the resident’s legal representative. This information shall include any charges for services not covered by the daily or monthly rate...” (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.29](#))

Person-Centered Planning:

- “Options of services, providers, and settings, including non-disability specific settings, are offered to participants in all Wisconsin HCBS programs.” (WI Statewide Transition Plan; Summarized from Wis. HCBS waivers, waiver-specific contracts, and policy documents.)
- Residents have the right to “use the licensed, certified or registered provider of health care and pharmacist of the resident’s choice.” ([Wis. Stat. § 50.09](#))

Met Unmet Not Applicable

- *Assisted Living Agreement* (Page 3 E), Selection of physician and other health care and service options – Reinforces that the resident has the right to choose any licensed, certified or registered health care professional. Although there are health care professionals on the Mile Bluff campus, residents at Crest View Great Lakes are free to choose outside providers for services.
- *Resident Handbook* – Cites that residents may select their own healthcare providers.

The setting optimizes, but does 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 [42 CFR § 441.301(c)(4)(iv)]

Compliance within Wisconsin State Standards and Regulations

Rights: Licensees must protect the civil rights of residents. Residents have the right to make decision relating to care, activities, daily routines, and other aspects of life that enhance the resident’s self-reliance and support the resident’s autonomy and decision-making. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.32](#))

Person-Centered Planning: The plan must be based on an assessment that addresses the person’s capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known, and social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts, and vocational needs. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.35](#))

“The CBRF shall teach residents the necessary skills to achieve and maintain the resident’s highest level of functioning.” The CBRF shall provide or arrange services adequate to meet the needs of the residents including providing leisure time activities, facilitating participation in community activities, and encouraging and assisting residents in maintaining family and social contacts. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.38](#))

Rights: Residents have the right to make decisions relating to care, activities, daily routines, and other aspects of life that enhance the resident’s self-reliance and support the resident’s autonomy and decision making, and have the least restrictive conditions necessary to achieve the purposes of the resident’s admission. The CBRF may not impose a curfew, rule, or other restriction on a resident’s freedom of choice. (Statewide Transition Plan; Summarized from Wis. Admin. Code § DHS 83.32)

Met Unmet Not Applicable

- Review of the *Resident Handbook, Admission Agreement* and Crest View Great Lakes policies support the right of each resident to enjoy individual choice, autonomy and independence in making choices about their activities, décor and living arrangements.
- A review of five person-centered plans supported individual choice in activities, hobbies, religious observance, etc. In addition to person-centered plans, each resident has a wellness plan and an activity/recreational plan that assesses and documents interests, activities, involvement, etc.

Individuals have the freedom and support to control their own schedules and activities [42 CFR § 441.301(c)(4)(vi)(C)]

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning: The plan must be based on an assessment that addresses the person’s “capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known” and “social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs.” (Statewide Transition Plan, pg. 72; Summarized from Wis. Admin. Code § DHS 83.35)

Rights: Licensees must protect the civil rights of residents. Residents have the right to make decision relating to care, activities, daily routines, and other aspects of life that enhance the resident’s self-reliance and support the resident’s autonomy and decision-making. (Summarized from Wis. Admin. Code § DHS 83.32)

Met Unmet Not Applicable

- Within 30 days of initial placement, a person-centered plan is developed that supports autonomy, choice, and individual likes and dislikes. A review of four person-centered plans confirmed that there is a focus on activities, schedules and support for the residents. Activity schedules were reviewed that illustrate a wide variety of choices for resident engagement.
- Resident Council notes suggest that residents can offer ideas for activities, etc.
- One person-centered plan documented that the resident attends a local senior center activity each week as well as attending their Sunday church service.

The setting ensures an individual’s rights of privacy, dignity and respect, and freedom from coercion and restraint [42 CFR § 441.301(c)(4)(iii)]

Compliance within Wisconsin State Standards and Regulations

Rights: Residents have the right to be “treated with courtesy, respect and dignity by all employees of the facility and other providers of health care and pharmacists with whom the resident comes in contact.” ([Statewide Transition Plan](#), pg. 72; Summarized from [Wis. Stat. § 50.09](#))

Residents must be provided with “physical and emotional privacy in treatment, living arrangements, and in caring for personal needs” including, privacy for visits by spouse or domestic partner, or to share a room with a spouse or domestic partner if both are residents for the same facility; privacy concerning health care; confidentiality of health and personal records; and the right to approve or refuse their release to any individual outside the facility. (Statewide Transition Plan, pg. 72; Summarized from Wis. Stat. § 50.09)

“Any form of coercion to discourage or prevent a resident or the resident’s legal representative from exercising any of the rights under this subchapter is prohibited. Any form of retaliation against a resident or the resident’s legal representative for exercising any of the rights in this subchapter, or against an employee or any other person who assists a resident or the resident’s legal representative in the exercise of any of the resident rights in this subchapter, is prohibited.” (Statewide Transition Plan, pg. 72; Wis. [Admin. Code § DHS 83.32](#))

In addition, each resident shall have all of the following rights: freedom from mistreatment; freedom from seclusion; freedom from chemical restraint; and freedom from physical restraints, except upon prior review and approval by DHS upon written authorization from the resident’s primary physician or advanced practice nurse prescriber. DHS may place conditions on the use of a restraint to protect the health, safety, welfare, and rights of the resident. (Statewide Transition Plan; Summarized from Wis. Admin. Code § DHS 83.32)

Met Unmet Not Applicable

The *Resident Rights Policy* addresses and ensures each of the requirements of 42 CFR § 441.301(c)(4)(iii). These requirements are confirmed through staff training and updates, and comply with all applicable federal, state and local laws regarding abuse/neglect. As part of this policy, each resident is encouraged to sign the *Resident Rights* protocol that ensures the facility’s compliance with applicable statutes.

Individuals are able to have visitors of their choosing at any time [42 CFR § 441.301(c)(4)(vi)(D)]

Compliance within Wisconsin State Standards and Regulations

Rights: Residents have the right to private and unrestricted communications with their family, physician or other medical provider, attorney, and any other person, unless documented as medically contraindicated. The right to private and unrestricted communications includes the right to... reasonable access to a telephone for private communications; and the opportunity for private visits. (WI Statewide Transition Plan; Summarized from Wis. Stat. § 50.09)

Met Unmet Not Applicable

Review of the long-term care policy confirms that each resident has “the right to receive visitors 24 hour a day.” Residents have the right to choose what visitors they want. A written *Visitor’s Policy* was submitted for review.

Individuals have access to food at any time

Compliance within Wisconsin State Standards and Regulations

The CBRF must provide each resident with palatable food that meets the recommended dietary allowance based on current guidelines, including at least three meals a day and a snack in the evening, or more often based on the resident’s dietary needs. If a resident is away during meal time, the CBRF shall offer food to the resident on the resident’s return. The CBRF shall make reasonable adjustments to the menu for individual resident likes, habits, customs, condition, and appetites. (Summarized from Wis. Admin. Code § DHS 83.41)

Met Unmet Not Applicable

Three meals a day are provided to the residents at Crest View Great Lakes. Residents can also request that their meals be delivered to their rooms. The rooms each have small refrigerators, and there is a lounge area available to store snacks, etc. Each resident’s dietary and nutritional needs are also assessed and documented in their respective plans.

Individuals occupy the setting under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity [42 CFR § 441.301(c)(4)(vi)(A)]

Compliance within Wisconsin State Standards and Regulations

“Each resident shall have a written agreement that is signed by and provided to each party. The agreement includes a description of the space to be provided to the resident, the agreed upon rate, a statement of the resident’s rights and the terms of termination, including timeframes. The agreement is updated annually.” ([WI Statewide Transition Plan](#), pg. 77; [Wis. Admin. Code § DHS 83.29](#))

The agreement must include terms for resident notification to the CBRF of voluntary discharge, and reasons and notice requirements for involuntary discharge or transfer, including transfers within the CBRF. (WI Statewide Transition Plan, pg. 77; Summarized from Wis. Admin. Code § DHS 83.31)
State licensed settings are subject to unannounced licensing visits, both in response to complaints and during regular oversight visits. Through ongoing HCBS monitoring, Wisconsin will ensure that individuals maintain the right to make such choices while residing in this state-licensed community-based residential facility. Additionally, the state’s long-term care ombudsman program has regular access to the setting.

Met Unmet Not Applicable

- Provider-submitted documents support compliance with property owner tenant laws, and that “Crest View CBRF/Mile Bluff is responsible to be familiar with and comply with all requirements of applicable landlord tenant statutes for their local community.”
- *Resident Handbook: Occupancy Agreement* reinforces that the setting will comply with all applicable laws including the Fair Housing Act.

Overcoming Institutional Presumption

The setting demonstrated a meaningful physical distinction between the HCBS setting and the institutional setting, including separate entrances and signage, physical divisions, and differences in décor.

Met Unmet Not Applicable

- Provider-submitted floor plans and photos indicate that there is a physical distinction between the nursing home and the CBRF. Photos of signage confirm that there is separate signage for Crest View Great Lakes. The CBRF is connected to the nursing home through a walkway, and residents of the CBRF can access services in the main lobby such as dining room, therapy area, library and beauty shop.
- Photos of individual living units confirmed that residents could decorate their own rooms and bring their own furnishings.

Each individual has privacy in their sleeping or living unit.

Compliance within Wisconsin State Standards and Regulations

Residents must be provided with “physical and emotional privacy in treatment, living arrangements, and in caring for personal needs” including, privacy for visits by spouse or domestic partner, or to share a room with a spouse or domestic partner if both are residents for the same facility; privacy concerning health care; confidentiality of health and personal records; and the right to approve or refuse their release to any individual outside the facility. (Statewide Transition Plan; Summarized from Wis. Stat. § 50.09)

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance surveyors that the setting (DQA, [E-02138](#), HCBS Compliance Review):

- Provides lockable key entry doors on all resident rooms, and individual keys to all residents.

- Has a policy ensuring that staff uses facility keys to enter a resident’s room only under circumstances agreed upon with the resident.

Met Unmet Not Applicable

- Crest View Great Lakes has 12 beds – 8 private rooms and 2 semi-private rooms. Crest View Great Lakes submitted a written lock policy as part of the resident handbook. Each resident has a key to his or her living unit. Staff receive staff training on the CBRF’s key policy and as part of the staff’s orientation and ongoing training curriculum.
- Staff are required to respect the privacy of all residents and are required to knock and seek permission before entering a living unit.

Individual living units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.

Compliance within Wisconsin State Standards and Regulations

Locks on living unit doors allow the resident to exercise his or her right to privacy and personal choice. Staff in each residential setting should always knock and receive permission prior to entering a resident’s living space. DHS expects the residential setting to have a policy in place to ensure that staff always knock and receive permission prior to entering a resident’s room or personal living space to respect residents’ rights to privacy. Please refer to DHS’ [Frequently Asked Questions \(FAQs\) about Door Locks in Adult Long-Term Care Residential Settings](#) for additional lock-related information.

Met Unmet Not Applicable

- Residents have their own key to their living space.
- As confirmed in the resident handbook, staff at Crest View Great Lakes are instructed to always knock and receive permission prior to entering a resident’s room.
- A written policy is in place to ensure that staff supports the privacy concerns of the residents.
- Privacy, resident rights and HCBS are included in staff training.

Individuals sharing units have a choice of roommates in that setting.

Compliance within Wisconsin State Standards and Regulations

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance surveyors that residents have choice of roommates (DQA, [F-02138](#), HCBS Compliance Review):

Person-Centered Planning: Family Care Provider Network, I. Access to Providers: “For residential care facilities, evidence of adequate capacity shall include identification of the availability of residential providers offering private rooms, and a process for moving an individual to a private room when one becomes available that is consistent with the member’s preferences.” ([DHS-MCO Contract, Article VIII, I\(6\)d](#))

Met Unmet Not Applicable

Two living units are available for a couple or individuals that want to share a unit.

Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement. [42 CFR § 441.301(c)(4)(vi)(B)(1-3)]

Compliance within Wisconsin State Standards and Regulations

Every resident in a community-based residential facility shall have the right to retain and use personal clothing and effects and to retain, as space permits, other personal possessions in a reasonably secure manner. (Summarized from Wis. Stat. § 50.09)

Met Unmet Not Applicable

Crest View Great Lakes encourages residents and their families to furnish the rooms with their own personal furniture and décor. Photos of resident living units were submitted that showed a variety of décor in the resident rooms.

The setting is physically accessible to the individual [42 CFR § 441.301(c)(4)(vi)(E)]

Compliance within Wisconsin State Standards and Regulations

The bedroom and congregate dining and living area for any resident requiring a specified level of care and who is blind or not fully ambulatory shall be on the first floor. (Summarized from Wis. Admin. Code § DHS 83.50)

Bedrooms shall be designed and equipped to allow residents to achieve the highest level of independent functioning and shall be fully accessible to the resident. Within the bedroom, each resident shall have, or be provided with a closet or wardrobe with clothes hanging rods and shelves, and drawer space adequate to reasonably meet the needs of the resident. The bedroom shall have adequate accessible space for a resident's wheelchair or other adaptive or prosthetic equipment. (Summarized from Wis. Admin. Code § DHS 83.54)

Met Unmet Not Applicable

Crest View Great Lakes CBRF is physically accessible.

The living unit is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services.

- The individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the applicable landlord/tenant laws.
- The State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law [42 CFR § 441.301(c)(4)(vi)(A)].

Compliance within Wisconsin State Standards and Regulations

"Each resident shall have a written agreement that is signed by and provided to each party. The agreement includes a description of the space to be provided to the resident, the agreed upon rate, a statement of the resident's rights and the terms of termination, including timeframes. The agreement is updated annually." ([Wis. Admin. Code § DHS 83.29](#))

The agreement must include terms for resident notification to the CBRF of voluntary discharge, and reasons and notice requirements for involuntary discharge or transfer, including transfers within the CBRF. (Summarized from [Wis. Admin. Code § DHS 83.31](#))

Met Unmet Not Applicable

- *Individual Occupancy Agreement* and *Resident Handbook* – clearly outline that Crest View Great Lakes is responsible for being familiar and complying with all requirements of applicable property owner tenant statutes for their community.
- *Occupancy Agreement* – states that the setting will provide "proper written notice to the resident whenever there is a decision regarding the resident's occupancy agreement, i.e., termination, etc."
- *Service Agreement* describes rate, care levels, termination notice and procedures, tenant policies and procedures. Residents are required to sign the service agreement which outlines rights, termination, rates, etc.

Operational Distinction

The setting demonstrated meaningful operational distinction between the institution and the community-based setting, such as minimal administrative and financial interconnectedness.

Met Unmet Not Applicable

- Crest View Great Lakes is part of the Mile Bluff Medical Center but does have a separate financial reporting document that confirms an operational distinction and allocation of resources separate from Mile Bluff.
- Staff, residential, activity, and supply expenses are separated for Crest View Great Lakes from the medical center.
- Organizational Chart was submitted that indicates that Crest View Great Lakes has its own director of administration.
- The facility has its own distinct staffing and does not share staff with the medical center.

There is a distinction between staff for the HCBS setting and the institutional setting. Staff working in the HCBS setting receive initial and ongoing training on HCBS settings rule requirements and principles, and person-centered planning.

Met Unmet Not Applicable

- Staff schedules were submitted for review, which confirmed that the direct care staff working at the CBRF do not work for other settings within the medical center.
- Staff receive initial HCBS training. A written HCBS policy was submitted that indicates that staff are trained in HCBS during orientation and that training is updated annually.

DHS Recommendation

DHS finds that [Crest View Great Lakes](#) possesses the required home and community–based characteristics, is not isolating in nature, and overcomes the presumption of having institutional qualities.

Please note that these findings are preliminary only and must receive final approval from CMS.

In accordance with federal requirements, all compliance results will be made public by DHS. The decision will appear on the subsequent upload of facility information to DHS websites, including the [DQA Provider Search webpage](#) and the provider directories available at the [Consumer Guide to Health Care – Finding and Choosing an Assisted Living Facility webpage](#).

Ongoing Compliance

Wisconsin’s Division of Quality Assurance (DQA) will ensure through ongoing compliance reviews that [Crest View Great Lakes](#) continues to meet the requirements of the HCBS Settings Rule. The DMS Bureau of Assisted Living (BAL) has incorporated the HCBS settings rule into its current assisted living survey process and activities. ([DQA Implementation of Home and Community-Based Services Settings Rule in Residential Assisted Living Facilities](#))

Waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are certified by the Wisconsin Department of Health Services (DHS) and work within the requirements of contracts with DHS. State licensed settings are subject to unannounced licensing visits, both in response to complaints and during regular oversight visits, by the state licensing authority, or by the entity that certified the provider if not regulated by the state. As part of these periodic licensing or certification reviews, the credentialing entity will also review the setting for continued HCBS compliance. Providers will be required to address any HCBS rule deficiencies.

When HCBS participants are resident in the setting, waiver program care managers are required to have ongoing contact, including face-to-face visits, at which time any areas of concern would be identified and addressed. Each participant in a Medicaid home and community-based waiver program is further protected through the state’s long-term care ombudsman program, which has regular access to the assisted living setting. [Wisconsin’s Board on Aging & Long Term Care](#): The Board on Aging and Long Term Care advocates for the interests of Wisconsin’s long-term care consumers, informs those consumers of their rights and educates the public about health care systems and long-term care. The Board also operates the [Long Term Care Ombudsman](#), and [Volunteer Ombudsman](#) services.

EVIDENTIARY ASSESSMENT AND SUMMARY
Home and Community-Based Services (HCBS) Settings Rule
Heightened Scrutiny Review – Community-Based Residential Facility (CBRF)

Facility Name The Fields of Washington County CBRF		Facility Type Community-Based Residential Facility (CBRF)	
Corporate Name (if applicable) Washington County-Samaritan Health Center		License/Certification # 0012737	County Washington County
Facility Address 531 East Washington Street	City West Bend	State WI	Zip Code 53095
Primary Contact Name Eric Moderski	Primary Contact Direct Phone (include area code) 262-365-6503	Primary Contact Email Address Eric.moderski@washcowisco.gov	
Facility Website Address www.samaritancampus.com			

Reason for Institutional Presumption

- Settings in a publicly or privately operated facility that provides inpatient institutional treatment.
- Settings on the grounds of, or adjacent to, a public institution. Name of institution: [Washington County Samaritan Health Center](#)
- Settings with the effect of isolating individuals from the broader community of individuals not receiving HCBS waiver services.

The Centers for Medicare and Medicaid Services' (CMS) HCBS settings rule assumes that certain settings are not home and community-based. If a Wisconsin assisted living facility (setting) meets one of the criteria for institutional presumption as defined above, the DHS Division of Medicaid Services (DMS) conducts a heightened scrutiny review.

DMS believes that [The Fields of Washington County CBRF](#) has overcome the institutional presumption and meets the criteria of a home and community-based services setting as summarized below.

To reinforce the extent to which Wisconsin's licensing and certification regulations and standards align with and reinforce the HCBS settings rule, the applicable state standard or regulation is included, where applicable, with the compliance review summary below.

Facility Summary

The Fields of Washington County (CBRF) was opened in 2009 in response to numerous community and constituent requests and current staff recommendations to develop a more cost effective option than skilled nursing care. The Fields CBRF is a 31-unit facility, designed to provide assisted living to low income, elderly and disabled individuals. At this writing, there are 23 residents supported by [Family Care](#) Medicaid long-term care funding. The Fields CBRF offers community living options that include 24-hr onsite assistance and access to a variety of social, health and wellness programs, and focuses on programs and services that enhance the quality of life, independence and community integration for its residents. The foundation for its services is the person-centered plan,

which includes self-direction using the least restrictive environment and promoting and encouraging choice of activities, healthcare providers and access to the greater West Bend community.

The setting is integrated in and supports full access to the greater community [42 CFR § 441.301(c)(4)(i)].

The community considers the setting a part of their community and does not associate the setting with institutional services.

Met Unmet Not Applicable

A review of the Program statement confirms that:

- The Fields of Washington CBRF program “creates a homelike, therapeutic environment within a small group setting, designed for emotional security, safety and comfort, with access to the community at large and the environment and the outdoors.”
- Review of policies and practices of the Fields confirms that when there is “an initial inquiry from a Community Member (potential resident) interested in the Fields, staff provide a referral to the Washington County ADRC for choice and options counseling and financial screen.” If the prospective member meets the initial qualifications, then a tour is arranged prior to admission.

Testimonials were submitted to further confirm that the greater West Bend community view the Fields as a community living resource and not institutional- One community volunteer that runs a club for interested residents to attend community events- The volunteer arranged bingo community events and a casino night. Additionally, prior to Covid-19, weekly outings were organized for the residents to attend the Lakeshore Chinook baseball games.

Individuals, to the extent they desire, have opportunities to participate in typical community life activities outside of the setting.

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning: The plan must be based on an assessment that addresses the person’s “capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known” and “social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs.” (Summarized from [Wis. Admin. Code § DHS 83.35](#))

Program Services: Community activities. The CBRF shall provide information and assistance to facilitate participation in personal and community activities. The CBRF shall develop, update and make available to all residents, monthly schedules and notices of community activities, including costs. ([Wis. Admin. Code § DHS 83.38\(1\)\(d\)](#))

Family and social contacts: The CBRF shall encourage and assist residents in maintaining family and social contacts. (Wis. Admin. Code § DHS 83.38(1)(e))

Met Unmet Not Applicable

Narrative submitted that highlighted outings for eight(8) weeks, pre Covid-19:

- Restaurants (33 times)
- Community Church (19 times)
- Community Volunteering and Guitar Lessons (10 times)
- Scheduled outings – Enchantment in the Park, Christmas Light Tour, and fish fries

Testimonials

- Aging and Disability Resource Center Director: “The Fields of Washington County has been an excellent resource for the residents of Washington County. It is a home-like environment that allows residents freedom of choice in their schedules and activities.”

-
- Community Care Social Worker: “Members of the Fields are able to come and go as they please and to access community outings. Additionally, one of our Community Care volunteers at the Fields provides support to the residents at the nursing facility.
 - Kettle Moraine YMCA “One of the residents is active at our YMCA and his membership helps to keep him physically active as well as helps to support his emotional and social well-being.”

Activities are individualized or include more than just setting-based group activities.

Met Unmet Not Applicable

- Narrative submitted that listed groups that organized outings and events for the residents: Kettle Classic Kar Club, 4-H, pet therapy, High school groups, etc.
- Photos and activity calendars were submitted promoting community events. Activity registration forms show individual residents choice in community activities.
- A review of the psychosocial section of three person centered plans indicates individualized choice in activities, volunteering, etc. One male resident regularly attends the YMCA. Another resident goes on a “Casino junket” once a month.
- The Community Member Handbook was submitted that indicated, “A monthly activity calendar with structured and non-structured groups is displayed on the bulletin boards. A monthly Community member meeting is held for the members input and also an opportunity to meet with the recreation department.”

The setting supports access to community activities through its own transportation or coordination of transportation options.

Met Unmet Not Applicable

- Community Member Handbook, under Cars and Parking, states that residents can operate their own vehicles and that parking is provided in the main parking lot.
- A review of the Scope of Services and Admission Agreements at the Fields of Washington County Assisted Living indicate that the setting has available transportation for group activities in the community. Staff will also work closely with family members, friends and volunteers to arrange transportation for residents for appointments in the community, etc.

Individuals, if they choose, have opportunities to seek employment and work in competitive integrated settings.

Met Unmet Not Applicable

- Residents at The Fields of Washington enjoy benefits that afford options for interaction and access to the greater West Bend community. Although the majority of residents are retired, a couple of residents still maintain volunteer positions in their community programs and they are encouraged to continue their participation as long as they choose.
- A review of one person-centered plan confirmed that a resident volunteers on a weekly basis at the local humane society and has been doing so for a number of years.

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning:

The plan must be based on an assessment that addresses the person’s “capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known” and “social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs.” ([WI Statewide Transition Plan](#); Summarized from [Wis. Admin. Code § DHS 83.35](#)).

From contract between DHS and specific MCOs:

V. Care Management:

C. Assessment and Member-Centered Planning Process

C.1. Comprehensive Assessment

C.1.(c) Documentation: The comprehensive assessment will include documentation by the IDT staff of:

C.1.(c)(viii) An exploration with the member of the member's preferences and opportunities for community integration including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community.

C.3. Member-Centered Planning

C.3.(c)(iv)(g) The setting in which the member resides supports integration into 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.

VII. Services

A. General Provisions

1. Comprehensive Service Delivery System

c. Serve to maintain community connections, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, and that are cost effective.

Addendum I

It is the DHS's "expectation under this contract that benefits will be fully integrated and will afford options that foster opportunities for interaction and integration into 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 while supporting each member's individual outcomes and recognizing each member's preferences."

Met Unmet Not Applicable

A review of the *Community Member Handbook, Community Member Funds* section states, "community members are able to open an account in the business office and have access to their own personal funds 24/7." Community members can also bank in their community and maintain an account at their financial institution of preference.

Individuals are able to control their personal resources.

Compliance within Wisconsin State Standards and Regulations

Every resident in a community-based residential facility has the right to "manage the resident's own financial affairs, unless the resident delegates, in writing, such responsibility to the facility and the facility accepts the responsibility or unless the resident delegates to someone else of the resident's choosing and that person accepts the responsibility." (Statewide Transition Plan; [Wis. Stat. § 50.09](#)).

Met Unmet Not Applicable

A review of the *Community Member Handbook, Community Member Funds* section states, "community members are able to open an account in the business office and have access to their own personal funds 24/7." Community members can also bank in their community and maintain an account at their financial institution of preference.

The setting is selected by the individual from among setting options including non-disability specific settings. [42 CFR § 441.301(c)(4)(ii)].

Compliance within Wisconsin State Standards and Regulations

Wisconsin has protections in place for Medicaid waiver participants which ensure they understand their choices. DHS waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are responsible for discussing choice of service settings with the waiver participant and family/guardian to locate the most suitable provider setting, including a discussion of living in a non-disability specific setting. In practice, the waiver agencies are complying with this requirement, and documenting and monitoring the choice of settings in the member-centered plan or IRIS support and service plan, as applicable.

In Wisconsin, the choice of setting requirement is not the initial responsibility of the provider setting. Rather the choice of setting takes place through the person-centered planning process at the waiver agency level. Waiver agencies are certified by DHS and work within the requirements of contracts with DHS. Through ongoing monitoring, Wisconsin will ensure that individuals maintain the right to choose where they reside.

Additionally, Wisconsin has protections in place through *Pre-Admission Consultation (PAC)*: <https://www.dhs.wisconsin.gov/adrc/pros/pac.htm>.

“Pre-admission consultation is a service provided by Aging and Disability Resource Centers (ADRCs) to individuals who are in the process of considering or making a decision about the need to move out of his or her home in order to receive the help they need to remain independent and safe. Sometimes people are unaware that there are services and supports that can be provided right in their own home, often making a move unnecessary. Those who want to move into a nursing home or assisted living facility (such as a community based residential facility or residential care apartment complex), can find it difficult to know which facility would be the best for them or a loved one.”

Met Unmet Not Applicable

- A review of person-centered plans as well as the individual admission agreements, The Fields of Washington County CBRF was selected from a choice of a variety of setting options, including non-disability specific settings. Additionally, documentation of annual review of choice of settings indicate that this setting continues to be the setting of choice for the individual.
- Copies of signature pages of three admission agreements confirm choice in settings as well as confirmation of discussions during annual reviews that confirm that this setting continues to be the setting of choice.
- The Residency and Services Agreement confirms that the applicant/community member provide consent for choice of settings.

The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and resources available for room and board. [42 CFR § 441.301(c)(4)(ii)].

Compliance within Wisconsin State Standards and Regulations

“COMPREHENSIVE INDIVIDUAL SERVICE PLAN Individual service plan review. Annually or when there is a change in a resident's needs, abilities or physical or mental condition, the individual service plan shall be reviewed and revised based on the assessment under sub. (1). All reviews of the individual service plan shall include input from the resident or legal representative, case manager, resident care staff, and other service providers as appropriate.” ([Wis. Admin. Code § DHS 83.35 \(1\)\(d\)](#))

Met Unmet Not Applicable

- A review of the ISP Policy indicates that the Fields staff “will ensure that there is an individual ISP for each community member. It will list the services provided, establish measurable goals and describe the method of care.”
- A review of Community Member Handbook states, “Three home-cooked meals and snacks are provided daily. Monthly menus are provided and snacks and drinks are provided 24 hours a day.” Community members can also have a refrigerator and microwave in their rooms.
- A review of a sample of person-centered plans confirm that there is individual choice in “the preferred location of meals”. Community members can choose to take their meals in the dining room or have their meals in their individual rooms.

The setting facilitates choice regarding services and supports, and who provides them. Individuals have a choice in selecting their service providers, and are not reliant on services from the institution to the exclusion of other community-based options. Individuals can choose to receive services in the community to the same degree as individuals not receiving Medicaid HCBS. [42 CFR § 441.301(c)(4)(v)]

Compliance within Wisconsin State Standards and Regulations

Before or at the time of admission, the CBRF shall provide written information regarding services available and the charges for those services to each resident or the resident's legal representative. This information shall include any charges for services not covered by the daily or monthly rate (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.29](#)).

Person-Centered Planning

1. "Options of services, providers, and settings, including non-disability specific settings, are offered to participants in all Wisconsin HCBS programs." (WI Statewide Transition Plan; Summarized from Wis. HCBS waivers, waiver-specific contracts, and policy documents.)
2. Residents have the right to "use the licensed, certified or registered provider of health care and pharmacist of the resident's choice." ([Wis. Stat. § 50.09](#))

Met Unmet Not Applicable

A review of the *Community Members Rights Policy (CBRF), Item 6, Choice of Health Care Providers* confirms that the "facility has a non-interference position with the Community Member's choice of his or her physician and providers of medical and other healthcare services. A community member shall not be required to use medical or mental health or providers who are employed by or affiliated with the facility. A Community Member's choice of providers of supportive, personal and nursing services from providers other than the community based residential facility is subject to the requirements of HFS89.24(2)(b)."

The setting optimizes, but does 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. [42 CFR § 441.301(c)(4)(iv)]

Compliance within Wisconsin State Standards and Regulations

Rights: Licensees must protect the civil rights of residents. Residents have the right to make decision relating to care, activities, daily routines, and other aspects of life that enhance the resident's self-reliance and support the resident's autonomy and decision-making. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.32](#)).

Person-Centered Planning: The plan must be based on an assessment that addresses the person's capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known, and social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts, and vocational needs. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.35](#)).

"The CBRF shall teach residents the necessary skills to achieve and maintain the resident's highest level of functioning." The CBRF shall provide or arrange services adequate to meet the needs of the residents including providing leisure time activities, facilitating participation in community activities, and encouraging and assisting residents in maintaining family and social contacts. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.38](#)).

Rights: Residents have the right to make decisions relating to care, activities, daily routines, and other aspects of life that enhance the resident's self-reliance and support the resident's autonomy and decision making, and have the least restrictive conditions necessary to achieve the purposes of the resident's admission. The CBRF may not impose a curfew, rule, or other restriction on a resident's freedom of choice. (Statewide Transition Plan; Summarized from Wis. Admin. Code § DHS 83.32).

Met Unmet Not Applicable

- Review of the Fields of Washington County CBRF Residence Bill of Rights, Admission Agreement and Program statement support the right of each resident to enjoy individual choice, autonomy and independence in making choices about their activities, décor, living arrangements.

- Review of the Community Based Residential (CBRF) Community Member Rights affirm: “that each resident with be treated with courtesy, respect and full recognition of the Member’s dignity and individuality by all employees of the facility.” Under the ***Self-Direction*** section, each resident is able “to make reasonable decisions relating to activities, daily routines, use of personal space, how to spend one’s time and other aspects of life in the CBRF.”
- A review of three person-centered plans demonstrated that each resident is actively involved in their care. As described under the section, *Need for Family/Community Contact- Family/Relationships*, a resident’s person centered plan clearly indicates that the resident is involved in his care, determines when he visits family and goes on outings. In the need/ service section, the plan highlighted- “authorizing/setting up transportation options for community outings of my choice.”

Individuals have the freedom and support to control their own schedules and activities. [42 CFR § 441.301(c)(4)(vi)(C)]

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning: The plan must be based on an assessment that addresses the person’s “capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known” and “social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs.” (Statewide Transition Plan, pg. 72; Summarized from Wis. Admin. Code § DHS 83.35) Rights: Licensees must protect the civil rights of residents. Residents have the right to make decision relating to care, activities, daily routines, and other aspects of life that enhance the resident’s self-reliance and support the resident’s autonomy and decision-making. (Summarized from Wis. Admin. Code § DHS 83.32)

Met Unmet Not Applicable

- Review of the Community Based Residential (CBRF) Community Member Rights affirm: “that each resident with be treated with courtesy, respect and full recognition of the Member’s dignity and individuality by all employees of the facility.” Under the ***Self-Direction*** section, each resident is able “to make reasonable decisions relating to activities, daily routines, use of personal space, how to spend one’s time and other aspects of life in the CBRF.”
- Review of the Community Member Handbook confirms, “Members are invited to participate, at their choice, in a variety of activities”.
- A review of a sampling of person centered plans confirmed that each of the members have the right to control their own schedules, participate in activities, etc. An example of this is that residents can have breakfast at leisure and wake up when they choose to.

The setting ensures an individual’s rights of privacy, dignity and respect, and freedom from coercion and restraint, [42 CFR § 441.301(c)(4)(iii)].

Compliance within Wisconsin State Standards and Regulations

Rights: Residents have the right to be “treated with courtesy, respect and dignity by all employees of the facility and other providers of health care and pharmacists with whom the resident comes in contact.” ([Statewide Transition Plan](#), pg. 72; Summarized from [Wis. Stat. § 50.09](#)).

Residents must be provided with “physical and emotional privacy in treatment, living arrangements, and in caring for personal needs” including, privacy for visits by spouse or domestic partner, or to share a room with a spouse or domestic partner if both are residents for the same facility; privacy concerning health care; confidentiality of health and personal records; and the right to approve or refuse their release to any individual outside the facility. (Statewide Transition Plan, pg. 72; Summarized from Wis. Stat. § 50.09).

“Any form of coercion to discourage or prevent a resident or the resident’s legal representative from exercising any of the rights under this subchapter is prohibited. Any form of retaliation against a resident or the resident’s legal representative for exercising any of the rights in this subchapter, or against an employee or any other person who assists a resident or the resident’s legal representative in the exercise of any of the resident rights in this subchapter, is prohibited.” (Statewide Transition Plan, pg. 72; Wis. [Admin. Code § DHS 83.32](#)).

In addition, each resident shall have all of the following rights: freedom from mistreatment; freedom from seclusion; freedom from chemical restraint; and freedom from physical restraints, except upon prior review and approval by DHS upon written authorization from the resident’s primary physician or advanced

practice nurse prescriber. DHS may place conditions on the use of a restraint to protect the health, safety, welfare, and rights of the resident. (Statewide Transition Plan; Summarized from Wis. Admin. Code § DHS 83.32).

Met Unmet Not Applicable

- A review of the Community Based Residential Facility Community Members Rights Program statement confirms, under the section of *Dignity and Respect* that each resident is entitled “to be treated with courtesy, respect and full recognition of the community member’s dignity and individuality by all employees of the facility and all employees of service providers associated with the facility.”
- A review of the Members rights statement confirms that each resident is entitled to a “safe environment’ and “freedom from abuse.”
- The Fields Community Member Rights policy addresses and ensures each of the requirements of 42 CFR § 441.301(c)(4)(iii)- These requirements are confirmed through staff training and updates and clearly comply with all applicable federal, state and local laws regarding abuse/neglect, etc. As part of this policy, each resident is encouraged to sign the residents’ rights protocol that ensures the facilities compliance with applicable statutes.

Individuals are able to have visitors of their choosing at any time. [42 CFR § 441.301(c)(4)(vi)(D)]

Compliance within Wisconsin State Standards and Regulations

Rights: Residents have the right to private and unrestricted communications with their family, physician or other medical provider, attorney, and any other person, unless documented as medically contraindicated. The right to private and unrestricted communications includes the right to reasonable access to a telephone for private communications; and the opportunity for private visits. (WI Statewide Transition Plan; Summarized from Wis. Stat. § 50.09).

Met Unmet Not Applicable

Under the Guest/Visitors section of the CBRF Handbook, community members “may have visitors any time of the day. Visits may be in the units or common area.”

Individuals have access to food at any time.

Compliance within Wisconsin State Standards and Regulations

The CBRF must provide each resident with palatable food that meets the recommended dietary allowance based on current guidelines, including at least three meals a day and a snack in the evening, or more often based on the resident’s dietary needs. If a resident is away during meal time, the CBRF shall offer food to the resident on the resident’s return. The CBRF shall make reasonable adjustments to the menu for individual resident likes, habits, customs, condition, and appetites. (Summarized from Wis. Admin. Code § DHS 83.41).

Met Unmet Not Applicable

The Fields of Washington County CBRF Admission Agreement entitles each resident to three meals a day, snacks anytime and access to food, as they desire. Each resident of the Fields can have a nutritional program and diet developed for them and every effort will be made to meet the individual needs of the resident. Dining and auxiliary food choices are also available at the Fields and include a dining room with guest meals, a snack bar and lounge with juices, bakery items, water, etc. Residents can also have meals set aside for them to access at different times from the scheduled dining room hours. Residents can have guests at any meal and can host dinners and parties for their friends and families.

The living unit is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services:

- The individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the applicable landlord/tenant laws.
- The State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction’s landlord tenant law. [42 CFR § 441.301(c)(4)(vi)(A)]

Compliance within Wisconsin State Standards and Regulations

“Each resident shall have a written agreement that is signed by and provided to each party. The agreement includes a description of the space to be provided to the resident, the agreed upon rate, a statement of the resident’s rights and the terms of termination, including timeframes. The agreement is updated annually.” ([WI Statewide Transition Plan](#), pg. 77; [Wis. Admin. Code § DHS 83.29](#)).

The agreement must include terms for resident notification to the CBRF of voluntary discharge, and reasons and notice requirements for involuntary discharge or transfer, including transfers within the CBRF. (Summarized from [Wis. Admin. Code § DHS 83.31](#)).

Met Unmet Not Applicable

- Residents at The Fields of Washington County CBRF each have a Residency and Service Agreement, which outlines services that are provided to the resident including room, board, rates and personal services. The Fields of Washington County Assisted Living, through its Admission Agreement confirms that the setting will comply with all applicable laws including the Fair Housing Act.
 - The Residency and Service agreement confirms that the agreement is “governed by the laws of the State of Wisconsin and can be disputed in the Circuit Court of Washington County, Wisconsin.
-

Overcoming Institutional Presumption

The setting demonstrated a meaningful physical distinction between the HCBS setting and the institutional setting, including separate entrances and signage, physical divisions, and differences in décor.

Met Unmet Not Applicable

- Documentation was submitted that demonstrates the physical distinction between the CBRF and the nursing home. The CBRF utilizes the main entrance for the Samaritan campus and there is outdoor signage that indicates that there is a separate entrance and signage for the CBRF.
 - Residents and guests at the CBRF utilize the main entrance and exit into their own hallway and bank of elevators. Elevators take the resident/guest to Floor 1, which leads to the individual rooms, lounges and community areas.
 - Photos were submitted of resident rooms that demonstrate a home-like environment and individually decorated. The lounge, activity areas and dining areas décor are decorated distinct from the SNF.
-

Each individual has privacy in their sleeping or living unit.

Compliance within Wisconsin State Standards and Regulations

Residents must be provided with “physical and emotional privacy in treatment, living arrangements, and in caring for personal needs” including, privacy for visits by spouse or domestic partner, or to share a room with a spouse or domestic partner if both are residents for the same facility; privacy concerning health care; confidentiality of health and personal records; and the right to approve or refuse their release to any individual outside the facility. (Statewide Transition Plan; Summarized from Wis. Stat. § 50.09).

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance surveyors that the setting (DQA, [F-02138](#), HCBS Compliance Review):

1. Provides lockable key entry doors on all resident rooms, and individual keys to all residents.
 2. Has a policy ensuring that staff uses facility keys to enter a resident’s room only under circumstances agreed upon with the resident.
-

Met Unmet Not Applicable

- [HCBS lock and privacy policy](#) was submitted for documents review and the [HCBS privacy and lock policies](#) are part of the HCBS staff training.
-

-
- The Fields of Washington County’s CBRF Resident Bill of Rights confirm that each resident is entitled to privacy, a key, lock, etc.

Individual living units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.

Compliance within Wisconsin State Standards and Regulations

Locks on living unit doors allow the resident to exercise his or her right to privacy and personal choice. Staff in each residential setting should always knock and receive permission prior to entering a resident’s living space. DHS expects the residential setting to have a policy in place to ensure that staff always knock and receive permission prior to entering a resident’s room or personal living space to respect residents’ rights to privacy. Please refer to DHS’ [Frequently Asked Questions \(FAQs\) about Door Locks in Adult Long-Term Care Residential Settings](#) for additional lock-related information.

Met Unmet Not Applicable

Each person at The Fields of Washington County Assisted Living has privacy in his/her sleeping unit including a lockable door. Tenant privacy and lock policies were submitted for document review and photos of living units with locks were submitted.

Individuals sharing units have a choice of roommates in that setting.

Compliance within Wisconsin State Standards and Regulations

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance surveyors that residents have choice of roommates (DQA, [F-02138](#), HCBS Compliance Review)

Person-Centered Planning: Family Care Provider Network, I. Access to Providers: “For residential care facilities, evidence of adequate capacity shall include identification of the availability of residential providers offering private rooms, and a process for moving an individual to a private room when one becomes available that is consistent with the member’s preferences.” ([DHS-MCO Contract, Article VIII, I\(6\)d](#))

Met Unmet Not Applicable

All of the living units at the Fields of Washington County are private.

Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement. [42 CFR § 441.301(c)(4)(vi)(B)(1-3)]

Compliance within Wisconsin State Standards and Regulations

Every resident in a community-based residential facility shall have the right to retain and use personal clothing and effects and to retain, as space permits, other personal possessions in a reasonably secure manner. (Summarized from Wis. Stat. § 50.09)

Met Unmet Not Applicable

Review of the Admission Agreement confirm that each resident can furnish their living units as they so choose. Submitted photos confirmed that each living unit was distinct and furnished by each resident.

The setting is physically accessible to the individual. [42 CFR § 441.301(c)(4)(vi)(E)]

Compliance within Wisconsin State Standards and Regulations

The bedroom and congregate dining and living area for any resident requiring a specified level of care and who is blind or not fully ambulatory shall be on the first floor. (Summarized from Wis. Admin. Code § DHS 83.50)

Bedrooms shall be designed and equipped to allow residents to achieve the highest level of independent functioning and shall be fully accessible to the resident. Within the bedroom, each resident shall have, or be provided with a closet or wardrobe with clothes hanging rods and shelves, and drawer space

adequate to reasonably meet the needs of the resident. The bedroom shall have adequate accessible space for a resident's wheelchair or other adaptive or prosthetic equipment. (Summarized from Wis. Admin. Code § DHS 83.54)

Met Unmet Not Applicable

The setting is physically accessible to the individual resident-42 CFR § 441.301(c)(4)(vi)(E)]

Operational Distinction

The setting demonstrated meaningful operational distinction between the institution and the community-based setting, such as minimal administrative and financial interconnectedness.

Met Unmet Not Applicable

- Review of the financial statements and narrative confirm that the Fields (CBRF) has its own separate and unique budget based on revenues and expenses and percentages of salary and benefits.
- Allocations are done between the CBRF and the SNF on a monthly basis and a percentage is allocated for salary and benefits.
- The reviewer viewed organizational charts and staffing schedules and confirmed that there is minimal interconnectedness at the management and administrative levels for the settings.

There is a distinction between staff for the HCBS setting and the institutional setting. Staff working in the HCBS setting receive initial and ongoing training on HCBS settings rule requirements and principles, and person-centered planning.

Met Unmet Not Applicable

- Staffing and training narrative submitted that states that the Fields- "hires, trains and maintains staff in the housing units (CBRF and the RCAC) that are separate and distinct from the SNF.
- The Housing Manager works with the Washington County Human Resource Department to hire staff who are qualified in the regulated education components as a Resident Assistant.
- Countywide orientation of staff also includes separate training for staff in the CBRF on HCBS settings, resident's rights and abuse, code of conduct and ethics training.

DHS Recommendation

Wisconsin can attest that [The Fields of Washington County CBRF](#) possesses the required home and community-based characteristics, is not isolating in nature, and overcomes the presumption of having institutional qualities.

Please note that these findings are preliminary only and must receive final approval from CMS.

In accordance with federal requirements, all compliance results will be made public by DHS. The decision will appear on the subsequent upload of facility information to DHS websites, including the [DQA Provider Search webpage](#) and the provider directories available at the [Consumer Guide to Health Care – Finding and Choosing an Assisted Living Facility webpage](#).

Ongoing Compliance

Wisconsin's Division of Quality Assurance (DQA) will ensure through ongoing compliance reviews that The Fields of Washington County CBRF continues to meet the requirements of the HCBS Settings Rule. The DMS Bureau of Assisted Living (BAL) has incorporated the HCBS settings rule into its current assisted living survey process and activities. ([DQA Implementation of Home and Community-Based Services Settings Rule in Residential Assisted Living Facilities](#))

Waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are certified by the Wisconsin Department of Health Services (DHS) and work within the requirements of contracts with DHS. State licensed settings are subject to unannounced licensing visits, both in response to complaints and during regular oversight visits, by the state licensing authority, or by the entity that certified the provider if not regulated by the state. As part of these periodic licensing or certification reviews, the credentialing entity will also review the setting for continued HCBS compliance. Providers will be required to address any HCBS rule deficiencies.

When HCBS participants are resident in the setting, waiver program care managers are required to have ongoing contact, including face-to-face visits, at which time any areas of concern would be identified and addressed. Each participant in a Medicaid home and community-based waiver program is further protected through the state's long-term care ombudsman program, which has regular access to the assisted living setting. [Wisconsin's Board on Aging & Long Term Care](#): The Board on Aging and Long Term Care advocates for the interests of Wisconsin's long-term care consumers, informs those consumers of their rights and educates the public about health care systems and long-term care. The Board also operates the [Long Term Care Ombudsman](#), and [Volunteer Ombudsman](#) services.

EVIDENTIARY ASSESSMENT AND SUMMARY
Home and Community-Based Services (HCBS) Settings Rule
Heightened Scrutiny Review – Community-Based Residential Facility (CBRF)

Facility Name Four Winds Lodge		Facility Type Community-Based Residential Facility (CBRF)	
Corporate Name (if applicable) Four Winds Manor		License/Certification # 110368	County Dane
Facility Address 309 Schweitzer Drive	City Verona	State WI	Zip Code 53593
Primary Contact Name: Lisa Aders	Primary Contact Direct Phone (incl. area code) 608-497-2364	Primary Contact Email Address:: Laders@fourwindsmanor.com	
Facility Website Address: www.fourwindsmanor.com			

Reason for Institutional Presumption

- Settings in a publicly or privately operated facility that provides inpatient institutional treatment. Name of institution: **Four Winds Manor**
- Settings in a building on the grounds of, or adjacent to, a public institution. Name of institution:
- Settings with the effect of isolating individuals from the broader community of individuals not receiving HCBS waiver services.

Wisconsin State Standards and Regulations:

The Centers for Medicare and Medicaid Services' (CMS) HCBS settings rule assumes that certain settings are not home and community-based. If a Wisconsin assisted living facility (setting) meets one of the criteria for institutional presumption as defined above, the DHS Division of Medicaid Services (DMS) conducts a heightened scrutiny review.

DMS believes that **Four Winds Lodge** has overcome the institutional presumption and meets the criteria of a home and community-based services setting as summarized below.

To reinforce the extent to which Wisconsin's licensing and certification regulations and standards align with and reinforce the HCBS settings rule, the applicable state standard or regulation is included, where applicable, with the compliance review summary below.

Facility Summary

The Four Winds Lodge, a community based residential facility (CBRF), is a privately owned and operated facility serving the Verona, Wisconsin community and surrounding area with varying degrees of assistance and support for its residents. Four Winds Lodge is located adjacent to Four Winds Manor Nursing and Rehabilitation center. Four Winds Lodge is licensed for 35 residents and currently serves 5 residents supported by [Family Care](#) Medicaid long-term care funding. The mission of Four Winds Lodge is to afford excellent services to residents through its home like environment that supports individualized care and services that are person centered for each resident.

The setting is integrated in and supports full access to the greater community [42 CFR § 441.301(c) (4) (i)].

The community considers the setting a part of their community and does not associate the setting with institutional services.

Met Unmet Not Applicable

- Review of the Senior Center Activity calendar describes the relationship with the Verona Senior Center where residents are able to attend the center's programming and activities, lunches and outings. Residents at Four Winds Lodge can arrange for transportation to the Senior Center.
- Review of the Program statement and guide, under "Activity Programming and Involvement" cites the importance of participating in both in house and also activities in the community. Review of the Resident Council's minutes at the onsite visit highlighted community activities, preferences and recommendations for additional activities.
- During the onsite review, the reviewer met with a group of volunteers to discuss activities, recreation and opportunities in the community and perceptions of Four Winds Lodge from the greater Verona community. One of the volunteers stated "my mother, aunt and other family members have all resided at Four Winds Lodge and it is the best community resource for our seniors".

Individuals, to the extent they desire, have opportunities to participate in typical community life activities outside of the setting.

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning: The plan must be based on an assessment that addresses the person's "capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known" and "social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs." (Summarized from [Wis. Admin. Code § DHS 83.35](#))

Program Services: Community activities. The CBRF shall provide information and assistance to facilitate participation in personal and community activities. The CBRF shall develop, update and make available to all residents, monthly schedules and notices of community activities, including costs. ([Wis. Admin. Code § DHS 83.38\(1\)\(d\)](#))

Family and social contacts: The CBRF shall encourage and assist residents in maintaining family and social contacts. (Wis. Admin. Code § DHS 83.38(1)(e))

Met Unmet Not Applicable

- Review of the Senior Center Activity calendar describes the relationship with the Verona Senior Center where residents are able to attend the center's programming and activities, lunches and outings. Residents at Four Winds Lodge can arrange for transportation to the Senior Center.
- Review of the Program statement and guide, under "Activity Programming and Involvement" cites the importance of participating in both in house and also activities in the community. Review of the Resident Council's minutes at the onsite visit highlighted community activities, preferences and recommendations for additional activities.

Activities are individualized or include more than just setting-based group activities

Met Unmet Not Applicable

- *Program Statement* – “Residents are encouraged to participate in formalized activities and also activities in the community.” “Families are welcome to visit at any time.” Mission statement states that the HCBS exists to provide “Resident centered choices as they pertain to care and living arrangements, and to encourage independence and involvement with family and friends to the extent possible” (p. 1).
- “Residents can continue to enjoy activities that give their life meaning and dignity. These activities are offered in the facility, but residents are also encouraged to participate in activities in the community” (p. 1)
- Extensive activity programming and resources are available to the residents. Some of the residents in the CBRF still drive and the facility offers transportation services for appointments as well as activities. In addition, a review of a sampling of resident’s ISPs indicated that a large portion of planning for the resident is around activities, likes and dislikes preferences, etc. The ISPs provide a section for activities, emotional and family support, etc. The reviewer spoke with a group of residents regarding the activity and resource schedules and opportunities at Four Winds Lodge.

The setting supports access to community activities through its own transportation or coordination of transportation options.

Met Unmet Not Applicable

- Includes “Senior Center Activity Calendar” stating that “Four Winds Lodge has a relationship with the Verona Senior Center where our residents are able to attend their programs, lunches, etc.” The HCBS arranges van transportation for residents who need it to go to and from the senior center (p. 2).
- Review of 3 person centered plans indicate that the plans were developed with considerable input from the residents and each plan identifies that the resident desires to be as independent as possible, participate in community events, attend church, dine out, etc.
- At the onsite review, the reviewer looked at a sampling of person centered plans and each plan has a section, *Social and Leisure*, and the reviewer reviewed a plan for a 80 year old gentleman who continued to attend Alzheimer’s support group, calls a “Bingo” game 2x week at the Verona Senior Center and has his own vehicle at Four Winds. Staff assist the resident in maintaining his independence and involvement in his hobbies and interests.

Individuals, if they choose, have opportunities to seek employment and work in competitive integrated settings.

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning:

The plan must be based on an assessment that addresses the person’s “capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known” and “social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs.” ([WI Statewide Transition Plan](#); Summarized from [Wis. Admin. Code § DHS 83.35](#))

From contract between DHS and specific MCOs:

V. Care Management:

C. Assessment and Member-Centered Planning Process

C.1. Comprehensive Assessment

C.1.(c) Documentation: The comprehensive assessment will include documentation by the IDT staff of:

C.1.(c)(viii) An exploration with the member of the member’s preferences and opportunities for community integration including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community.

C.3. Member-Centered Planning

C.3.(c)(iv)(g) The setting in which the member resides supports integration into 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.

VII. Services

A. General Provisions

1. Comprehensive Service Delivery System

- c. Serve to maintain community connections, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, and that are cost effective.

Addendum I

It is the DHS’s “expectation under this contract that benefits will be fully integrated and will afford options that foster opportunities for interaction and integration into 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 while supporting each member’s individual outcomes and recognizing each member’s preferences.”

Met Unmet Not Applicable

- Residents at Four Winds Lodge Assisted Living enjoy benefits that afford options for interaction and access to the greater Verona community. During the initial intake assessment, a new resident is given a “Community resource manual” that outlines volunteer opportunities, access to those opportunities as well as the Resident Rights policy that states “As a resident, you have the right to participate in religious, social and community activities”.
- Although the majority of residents are retired, many residents still volunteer in their community and Four Winds Lodge supports their efforts.

Individuals are able to control their personal resources.

Compliance within Wisconsin State Standards and Regulations

Every resident in a community-based residential facility has the right to “manage the resident’s own financial affairs, unless the resident delegates, in writing, such responsibility to the facility and the facility accepts the responsibility or unless the resident delegates to someone else of the resident’s choosing and that person accepts the responsibility.” (Statewide Transition Plan; [Wis. Stat. § 50.09](#))

Met Unmet Not Applicable

Based on verification of this HCBS compliance rule and resident interviews, each resident at Four Winds Lodge has the right to manage his/her personal resources unless delegated by the resident to someone of their choosing. Confirmation of this policy is outlined in the Resident Handbook/Program Statement which indicates that in addition to personal management of funds and resources, each resident has a choice in selecting non-residential services as well as medical and social service providers. As to personal funds, each resident can choose their own bank or choose to work with the facility in setting up an account.

Choice, Independence, and Person-Centered Planning

The setting is selected by the individual from among setting options including non-disability specific settings. [42 CFR § 441.301(c)(4)(ii)]

Compliance within Wisconsin State Standards and Regulations

Wisconsin has protections in place for Medicaid waiver participants which ensure they understand their choices. DHS waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are responsible for discussing choice of service settings with the waiver participant and family/guardian to locate the most suitable provider setting, including a discussion of living in a non-disability specific setting. In practice, the waiver agencies are complying with this requirement, and documenting and monitoring the choice of settings in the member-centered plan or IRIS support and service plan, as applicable.

In Wisconsin, the choice of setting requirement is not the initial responsibility of the provider setting. Rather the choice of setting takes place through the person-centered planning process at the waiver agency level. Waiver agencies are certified by DHS and work within the requirements of contracts with DHS. Through ongoing monitoring, Wisconsin will ensure that individuals maintain the right to choose where they reside.

Additionally, Wisconsin has protections in place through *Pre-Admission Consultation (PAC)*: <https://www.dhs.wisconsin.gov/adrc/pros/pac.htm>

“Pre-admission consultation is a service provided by Aging and Disability Resource Centers (ADRCs) to individuals who are in the process of considering or making a decision about the need to move out of his or her home in order to receive the help they need to remain independent and safe. Sometimes people are unaware that there are services and supports that can be provided right in their own home, often making a move unnecessary. Those who want to move into a nursing home or assisted living facility (such as a community based residential facility or residential care apartment complex), can find it difficult to know which facility would be the best for them or a loved one.”

Met Unmet Not Applicable

- A review of person centered plans confirm that Four Winds Lodge, was selected from a choice of a variety of setting options, including non-disability specific settings. Additionally, documentation of annual review of choice of settings indicate that this setting continues to be the setting of choice for the individual.
- At the onsite review, the reviewer confirmed that the MCO person centered plans were available for review and indicate that the resident, family and setting were all part of the decision and ultimately the resident made his/her decision regarding placement.
- Copies of signature pages of five (5) person centered support plans confirm choice in settings as well as confirmation of discussions during annual reviews that confirm that this setting continues to be the setting of choice. Additionally, resident interviews conducted during the onsite review included a question regarding choice of settings and each resident interview confirmed that the resident was actively involved in yearly planning and was able to exercise preference for setting.

The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and resources available for room and board. [42 CFR § 441.301(c)(4)(ii)]

Compliance within Wisconsin State Standards and Regulations:

“COMPREHENSIVE INDIVIDUAL SERVICE PLAN Individual service plan review. Annually or when there is a change in a resident's needs, abilities or physical or mental condition, the individual service plan shall be reviewed and revised based on the assessment under sub. (1). All reviews of the individual service plan shall include input from the resident or legal representative, case manager, resident care staff, and other service providers as appropriate.” ([Wis. Admin. Code § DHS 83.35 \(1\)\(d\)](#))

Met Unmet Not Applicable

- The Program Statement makes clear that Four Winds Lodge Assisted Living, offers each individual the freedom to live as active lifestyle that they desire”. Compliance within the Provider submitted documentation confirms that within the Four Winds Lodge senior community, each individual can enjoy in house services, meal and complimentary services, dining options and a robust activity program planned for in house and external opportunities.
- Person centered planning supports that the setting is the individual’s home and should be thought of and supported with a focus on individuality, privacy, needs, likes and preferences.
- Nutritional and dietary services are provided to the residents to reflect their individual choices regarding meals, etc. Snack and access to food is available at all times and each of the apartments have a small refrigerator.

The setting facilitates choice regarding services and supports, and who provides them. Individuals have a choice in selecting their service providers, and are not reliant on services from the institution to the exclusion of other community-based options. Individuals can choose to receive services in the community to the same degree as individuals not receiving Medicaid HCBS. [42 CFR § 441.301(c)(4)(v)].

Compliance within Wisconsin State Standards and Regulations

Before or at the time of admission, the CBRF shall provide written information regarding services available and the charges for those services to each resident or the resident's legal representative. This information shall include any charges for services not covered by the daily or monthly rate..." (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.29](#))

Person-Centered Planning:

1. "Options of services, providers, and settings, including non-disability specific settings, are offered to participants in all Wisconsin HCBS programs." (WI Statewide Transition Plan; Summarized from Wis. HCBS waivers, waiver-specific contracts, and policy documents.)
2. Residents have the right to "use the licensed, certified or registered provider of health care and pharmacist of the resident's choice." ([Wis. Stat. § 50.09](#))

Met Unmet Not Applicable

- Documents submitted included both the Program Statement and Resident Handbook. On page 4 of the Program statement, "we identify that residents are able to contract with their choice of health care providers and that Four Winds Lodge will assist the resident with transportation."
- Confirmation of [42 CFR § 441.301(c)(4)(v)] under the "Your Health" statement of the Resident Handbook states that residents are able to obtain a doctor of their own choosing in the community and are not reliant upon a specific team or healthcare providers that come to the facility.

The setting optimizes, but does 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 [42 CFR § 441.301(c)(4)(iv)]

Compliance within Wisconsin State Standards and Regulations

Rights: Licensees must protect the civil rights of residents. Residents have the right to make decision relating to care, activities, daily routines, and other aspects of life that enhance the resident's self-reliance and support the resident's autonomy and decision-making. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.32](#))

Person-Centered Planning: The plan must be based on an assessment that addresses the person's capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known, and social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts, and vocational needs. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.35](#))

"The CBRF shall teach residents the necessary skills to achieve and maintain the resident's highest level of functioning." The CBRF shall provide or arrange services adequate to meet the needs of the residents including providing leisure time activities, facilitating participation in community activities, and encouraging and assisting residents in maintaining family and social contacts. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.38](#))

Rights: Residents have the right to make decisions relating to care, activities, daily routines, and other aspects of life that enhance the resident's self-reliance and support the resident's autonomy and decision making, and have the least restrictive conditions necessary to achieve the purposes of the resident's admission. The CBRF may not impose a curfew, rule, or other restriction on a resident's freedom of choice. (Statewide Transition Plan; Summarized from Wis. Admin. Code § DHS 83.32)

Met Unmet Not Applicable

- Review of the Resident Handbook, Resident Rights Policy and Senior Living Policies support the right of each resident to enjoy individual choice, autonomy and independence in making choices about their activities, décor, living arrangements and Four Winds Lodge Assisted Living's philosophy and approach is to focus on the lifestyles and values of seniors and respect for individuality, independence, dignity, choice, privacy and a strong sense of well-being.

- A review of six (6) person centered plans supported individual choice in activities, hobbies, religious observance, etc. In addition to person centered plans, each resident has a wellness plan and an activity/recreational plan that assesses and documents interests, activities, involvement, etc.
- During the onsite review, the reviewer spoke with a group of residents and asked specific questions regarding choice, daily activities, lifestyle and involvement and the general consensus was that there were so many opportunities to engage in if you choose to do so. Two of the residents I spoke with go to Bingo twice a week in Verona and once a week they visit the beauty parlor to get their hair done.

Individuals have the freedom and support to control their own schedules and activities [42 CFR § 441.301(c)(4)(vi)(C)]

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning: The plan must be based on an assessment that addresses the person’s “capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known” and “social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs.” (Statewide Transition Plan, pg. 72; Summarized from Wis. Admin. Code § DHS 83.35)

Rights: Licensees must protect the civil rights of residents. Residents have the right to make decision relating to care, activities, daily routines, and other aspects of life that enhance the resident’s self-reliance and support the resident’s autonomy and decision-making. (Summarized from Wis. Admin. Code § DHS 83.32)

Met Unmet Not Applicable

At the onsite review, sample Individualized Resident Calendars were provided for seven (7) residents. As part of the person centered planning process, the Assisted Living Director meets with each resident to discuss their activity preferences and how Four Winds Lodge can support them through transportation, etc. One example that the reviewer reviewed indicated that one of the residents went to Church each Sunday, visited and attended the Senior Center three mornings a week, and attended choir practice each Wednesday evening.

The setting ensures an individual’s rights of privacy, dignity and respect, and freedom from coercion and restraint [42 CFR § 441.301(c)(4)(iii)]

Compliance within Wisconsin State Standards and Regulations

Rights: Residents have the right to be “treated with courtesy, respect and dignity by all employees of the facility and other providers of health care and pharmacists with whom the resident comes in contact.” ([Statewide Transition Plan](#), pg. 72; Summarized from [Wis. Stat. § 50.09](#))

Residents must be provided with “physical and emotional privacy in treatment, living arrangements, and in caring for personal needs” including, privacy for visits by spouse or domestic partner, or to share a room with a spouse or domestic partner if both are residents for the same facility; privacy concerning health care; confidentiality of health and personal records; and the right to approve or refuse their release to any individual outside the facility. (Statewide Transition Plan, pg. 72; Summarized from Wis. Stat. § 50.09)

“Any form of coercion to discourage or prevent a resident or the resident’s legal representative from exercising any of the rights under this subchapter is prohibited. Any form of retaliation against a resident or the resident’s legal representative for exercising any of the rights in this subchapter, or against an employee or any other person who assists a resident or the resident’s legal representative in the exercise of any of the resident rights in this subchapter, is prohibited.” (Statewide Transition Plan, pg. 72; Wis. [Admin. Code § DHS 83.32](#))

In addition, each resident shall have all of the following rights: freedom from mistreatment; freedom from seclusion; freedom from chemical restraint; and freedom from physical restraints, except upon prior review and approval by DHS upon written authorization from the resident’s primary physician or advanced practice nurse prescriber. DHS may place conditions on the use of a restraint to protect the health, safety, welfare, and rights of the resident. (Statewide Transition Plan; Summarized from Wis. Admin. Code § DHS 83.32)

Met Unmet Not Applicable

- The Four Winds Lodge Resident Rights policy addresses and ensures each of the requirements of 42 CFR § 441.301(c)(4)(iii)- These requirements are confirmed through staff training and updates and clearly comply with all applicable federal, state and local laws regarding abuse/neglect, etc. As part of this policy, each resident is encouraged to sign the residents' rights protocol that ensures the facilities compliance with applicable statutes.
- New employee orientation and employee and staff orientation checklists include sections on privacy, confidentiality, resident rights, abuse/neglect prevention, mandated reporting requirements and a Four Winds Manor Assisted Living *Code of Ethics*.

Individuals are able to have visitors of their choosing at any time [42 CFR § 441.301(c)(4)(vi)(D)]

Compliance within Wisconsin State Standards and Regulations

Rights: Residents have the right to private and unrestricted communications with their family, physician or other medical provider, attorney, and any other person, unless documented as medically contraindicated. The right to private and unrestricted communications includes the right to... reasonable access to a telephone for private communications; and the opportunity for private visits. (WI Statewide Transition Plan; Summarized from Wis. Stat. § 50.09)

Met Unmet Not Applicable

Resident Handbook/Resident Rights Section confirms the "Right to Private and Unrestricted Communication:"- Each resident has the right to private visitors and private visits as part of a reasonable visitor policy. The handbook asserts that the resident is responsible for guests that visit and that the setting will have defined guest rules.

Individuals have access to food at any time

Compliance within Wisconsin State Standards and Regulations

The CBRF must provide each resident with palatable food that meets the recommended dietary allowance based on current guidelines, including at least three meals a day and a snack in the evening, or more often based on the resident's dietary needs. If a resident is away during meal time, the CBRF shall offer food to the resident on the resident's return. The CBRF shall make reasonable adjustments to the menu for individual resident likes, habits, customs, condition, and appetites. (Summarized from Wis. Admin. Code § DHS 83.41)

Met Unmet Not Applicable

Residents at Four Winds Lodge have access to food and snacks any time of the day. Generous schedules are available in the dining room for breakfast, lunch and dinner and there is a small snack center and coffee bar in the lounge area for the residents.

Individuals occupy the setting under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity [42 CFR § 441.301(c)(4)(vi)(A)]

Compliance within Wisconsin State Standards and Regulations

"Each resident shall have a written agreement that is signed by and provided to each party. The agreement includes a description of the space to be provided to the resident, the agreed upon rate, a statement of the resident's rights and the terms of termination, including timeframes. The agreement is updated annually." ([WI Statewide Transition Plan](#), pg. 77; [Wis. Admin. Code § DHS 83.29](#))

The agreement must include terms for resident notification to the CBRF of voluntary discharge, and reasons and notice requirements for involuntary discharge or transfer, including transfers within the CBRF. (WI Statewide Transition Plan, pg. 77; Summarized from Wis. Admin. Code § DHS 83.31)

State licensed settings are subject to unannounced licensing visits, both in response to complaints and during regular oversight visits. Through ongoing HCBS monitoring, Wisconsin will ensure that individuals maintain the right to make such choices while residing in this state-licensed community-based residential facility. Additionally, the state's long-term care ombudsman program has regular access to the setting.

Met Unmet Not Applicable

- Provider submitted documents support compliance of landlord tenant laws that “Four Winds Lodge Assisted Living is responsible to be familiar with and comply with all requirements of applicable landlord tenant statutes for their local community. Four Winds Lodge and Manor, through its Occupancy Agreement in its Resident Handbook that the setting will comply with all applicable laws including the Fair Housing Act.
- At the onsite review, sample leases and admission agreements were reviewed and comply in accordance with HCBS. The occupancy agreement confirms that individuals residing at Four Winds Lodge Assisted Living occupy their residence under a legally enforceable occupancy agreement and that the individual enjoys the same responsibilities and protections from eviction by statute of their community.

Overcoming Institutional Presumption

The setting demonstrated a meaningful physical distinction between the HCBS setting and the institutional setting, including separate entrances and signage, physical divisions, and differences in décor.

Met Unmet Not Applicable

- Photos of the resident's rooms, lounges, living areas, dining rooms, patio, etc. were submitted that indicate that Four Winds Lodge provides a home like setting and environment. At the onsite visit, the reviewer toured a number of the resident rooms which were all furnished to the individual taste of the resident. Two hour fire rated doors separating the CBRF from the SNF.
- Pictures of entrances, signage, etc. were submitted and Four Winds Lodge is located at 309 Schweitzer Drive in Verona and the SNF is at 303 South Jefferson Street, each with a separate entrance and parking lot.
- Blueprints were submitted and Four Winds Lodge was highlighted with a clear distinction between the CBRF and the SNF.

Each individual has privacy in their sleeping or living unit.

Compliance within Wisconsin State Standards and Regulations

Residents must be provided with “physical and emotional privacy in treatment, living arrangements, and in caring for personal needs” including, privacy for visits by spouse or domestic partner, or to share a room with a spouse or domestic partner if both are residents for the same facility; privacy concerning health care; confidentiality of health and personal records; and the right to approve or refuse their release to any individual outside the facility. (Statewide Transition Plan; Summarized from Wis. Stat. § 50.09)

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance surveyors that the setting (DQA, [E-02138](#), HCBS Compliance Review):

1. Provides lockable key entry doors on all resident rooms, and individual keys to all residents.
2. Has a policy ensuring that staff uses facility keys to enter a resident's room only under circumstances agreed upon with the resident.

Met Unmet Not Applicable

- During the onsite visit, the reviewer viewed three separate apartments and can confirm that residents have private/semi private rooms and can enjoy physical and emotional privacy. Each resident has privacy with entrance doors lockable by the individual, with only appropriate staff having keys to doors and individual do have a choice of roommates, if applicable.

-
- HCBS lock and privacy policy was submitted for documents review and the HCBS privacy and lock policies are part of the HCBS staff training.

Individual living units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.

Compliance within Wisconsin State Standards and Regulations

Locks on living unit doors allow the resident to exercise his or her right to privacy and personal choice. Staff in each residential setting should always knock and receive permission prior to entering a resident's living space. DHS expects the residential setting to have a policy in place to ensure that staff always knock and receive permission prior to entering a resident's room or personal living space to respect residents' rights to privacy. Please refer to DHS' [Frequently Asked Questions \(FAQs\) about Door Locks in Adult Long-Term Care Residential Settings](#) for additional lock-related information.

Met Unmet Not Applicable

- During the onsite review, resident interviews confirmed that their respective living units have lockable doors. Of the thirty five (35) rooms at Four Winds Lodge, six are double occupancy.
- Four Winds Lodge provided lock and privacy policies that confirmed that staff always knock and receive permission prior to entering a resident's apartment; only the resident and the appropriate staff have keys to the living unit; and the written policy confirms that staff are trained as part of the HCBS compliance for this protocol.

Individuals sharing units have a choice of roommates in that setting.

Compliance within Wisconsin State Standards and Regulations

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance surveyors that residents have choice of roommates (DQA, [F-02138](#), HCBS Compliance Review):

Person-Centered Planning: Family Care Provider Network, I. Access to Providers: "For residential care facilities, evidence of adequate capacity shall include identification of the availability of residential providers offering private rooms, and a process for moving an individual to a private room when one becomes available that is consistent with the member's preferences." ([DHS-MCO Contract, Article VIII, I\(6\)d](#))

Met Unmet Not Applicable

There are a number of double occupancy rooms at Four Winds Lodge. The reviewer looked at the policy regarding roommates, etc. and where possible, the resident can have a choice of roommates.

Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement. [42 CFR § 441.301(c)(4)(vi)(B)(1-3)]

Compliance within Wisconsin State Standards and Regulations

Every resident in a community-based residential facility shall have the right to retain and use personal clothing and effects and to retain, as space permits, other personal possessions in a reasonably secure manner. (Summarized from Wis. Stat. § 50.09)

Met Unmet Not Applicable

- Review of the Resident Handbook and Admission Agreement confirm that each resident can furnish their living units as they so choose. Submitted photos confirmed that each living unit was distinct and furnished by each resident. At the onsite visit, the reviewer observed that each of the rooms were furnished personally for the resident and each resident of the double occupancy rooms also had personal furnishings and décor.
- During the onsite review, the reviewer observed that the décor of each of the apartments were distinct from the SNF units and each resident could bring personal furniture and furnishings to their living space.

The setting is physically accessible to the individual [42 CFR § 441.301(c)(4)(vi)(E)]

Compliance within Wisconsin State Standards and Regulations

The bedroom and congregate dining and living area for any resident requiring a specified level of care and who is blind or not fully ambulatory shall be on the first floor. (Summarized from Wis. Admin. Code § DHS 83.50)

Bedrooms shall be designed and equipped to allow residents to achieve the highest level of independent functioning and shall be fully accessible to the resident. Within the bedroom, each resident shall have, or be provided with a closet or wardrobe with clothes hanging rods and shelves, and drawer space adequate to reasonably meet the needs of the resident. The bedroom shall have adequate accessible space for a resident's wheelchair or other adaptive or prosthetic equipment. (Summarized from Wis. Admin. Code § DHS 83.54)

Met Unmet Not Applicable

The setting is physically accessible.

The living unit is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services.

- The individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the applicable landlord/tenant laws.
- The State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law [42 CFR § 441.301(c)(4)(vi)(A)].

Compliance within Wisconsin State Standards and Regulations

"Each resident shall have a written agreement that is signed by and provided to each party. The agreement includes a description of the space to be provided to the resident, the agreed upon rate, a statement of the resident's rights and the terms of termination, including timeframes. The agreement is updated annually." ([Wis. Admin. Code § DHS 83.29](#))

The agreement must include terms for resident notification to the CBRF of voluntary discharge, and reasons and notice requirements for involuntary discharge or transfer, including transfers within the CBRF. (Summarized from [Wis. Admin. Code § DHS 83.31](#))

Met Unmet Not Applicable

- Documents submitted for review include, Individual Occupancy Agreement/Residence Admission and Board agreement, Resident Handbook which clearly outlines that Four Winds Lodge Assisted Living is responsible to be familiar with and comply with all requirements of applicable landlord tenant statutes for their community. As part of the Occupancy Agreement, it is stated that the setting will provide "proper written notice to the resident whenever there is a decision regarding the resident's occupancy agreement, i.e., termination, etc.
- Service Agreement describes rate, care levels, termination notice and procedures, tenant policies and procedures.

Operational Distinction

The setting demonstrated meaningful operational distinction between the institution and the community-based setting, such as minimal administrative and financial interconnectedness.

Met Unmet Not Applicable

- Documents submitted include financial statements, budgets, P&L, etc. Review of these documents indicate that the HCBS setting, Four Winds Lodge is highlighted in yellow on Tab 13-Lodge and indicates that the setting has a separate line of expenses from the SNF.
- Job descriptions were submitted and indicates that Four Winds Lodge has its own Administrative Director-Lodge Director and has no responsibilities for the operations of the SNF. Resident Assistants are hired specifically for the CBRF,

There is a distinction between staff for the HCBS setting and the institutional setting. Staff working in the HCBS setting receive initial and ongoing training on HCBS settings rule requirements and principles, and person-centered planning.

Met Unmet Not Applicable

- HCBS Staffing Schedule was submitted and reviewed which indicate that all staff are initially trained in HCBS settings rules and that training is updated yearly. During the onsite review, the reviewer confirmed that a separate staff schedule was posted in the CBRF for staff.
- Training manual was reviewed and there is minimal cross-training of staff from the CBRF and the SNF. At times, a Certified Nursing Assistant works in the CBRF will staff a shift in the SNF for certification reasons. The reviewer reviewed the HCBS Settings Rule Crosswalk and quiz that staff take on a periodic basis.

DHS Recommendation

DHS finds that [Four Winds Lodge](#) possesses the required home and community-based characteristics, is not isolating in nature, and overcomes the presumption of having institutional qualities.

Please note that these findings are preliminary only and must receive final approval from CMS.

In accordance with federal requirements, all compliance results will be made public by DHS. The decision will appear on the subsequent upload of facility information to DHS websites, including the [DQA Provider Search webpage](#) and the provider directories available at the [Consumer Guide to Health Care – Finding and Choosing an Assisted Living Facility webpage](#).

Ongoing Compliance

Wisconsin's Division of Quality Assurance (DQA) will ensure through ongoing compliance reviews that [Four Winds Lodge](#) continues to meet the requirements of the HCBS Settings Rule. The DMS Bureau of Assisted Living (BAL) has incorporated the HCBS settings rule into its current assisted living survey process and activities. ([DQA Implementation of Home and Community-Based Services Settings Rule in Residential Assisted Living Facilities](#))

Waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are certified by the Wisconsin Department of Health Services (DHS) and work within the requirements of contracts with DHS. State licensed settings are subject to unannounced licensing visits, both in response to complaints and during regular oversight visits, by the state licensing authority, or by the entity that certified the provider if not regulated by the state. As part of these periodic licensing or certification reviews, the credentialing entity will also review the setting for continued HCBS compliance. Providers will be required to address any HCBS rule deficiencies.

When HCBS participants are resident in the setting, waiver program care managers are required to have ongoing contact, including face-to-face visits, at which time any areas of concern would be identified and addressed. Each participant in a Medicaid home and community-based waiver program is further protected through the state's long-term care ombudsman program, which has regular access to the assisted living setting. [Wisconsin's Board on Aging & Long Term Care](#): The Board on Aging and Long Term Care advocates for the interests of Wisconsin's long-term care consumers, informs those consumers of their rights and educates the public about health care systems and long-term care. The Board also operates the [Long Term Care Ombudsman](#), and [Volunteer Ombudsman](#) services.

EVIDENTIARY ASSESSMENT AND SUMMARY
Home and Community-Based Services (HCBS) Settings Rule
Heightened Scrutiny Review – Community-Based Residential Facility (CBRF)

Facility Name Francis House		Facility Type Community-Based Residential Facility (CBRF)	
Corporate Name (if applicable) Chi Living Communities		License/Certification # # 0016783	County Milwaukee
Facility Address 3601 S Chicago Ave	City South Milwaukee	State WI	Zip Code 53172
Primary Contact Name Michael Gulock	Primary Contact Direct Phone (include area code) 414-764-4100	Primary Contact Email Address mgulock@chilivingcomm.org	
Facility Website Address https://www.homeishere.org/franciscan-villa/memory-care/			

Reason for Institutional Presumption

- Settings in a publicly or privately operated facility that provides inpatient institutional treatment. [Franciscan Villa](#)
- Settings on the grounds of, or adjacent to, a public institution. Name of institution: [Click or tap here to enter text.](#)
- Settings with the effect of isolating individuals from the broader community of individuals not receiving HCBS waiver services.

The Centers for Medicare and Medicaid Services' (CMS) HCBS settings rule assumes that certain settings are not home and community-based. If a Wisconsin assisted living facility (setting) meets one of the criteria for institutional presumption as defined above, the DHS Division of Medicaid Services (DMS) conducts a heightened scrutiny review.

DMS believes that [Francis House](#) has overcome the institutional presumption and meets the criteria of a home and community-based services setting as summarized below.

To reinforce the extent to which Wisconsin's licensing and certification regulations and standards align with and reinforce the HCBS settings rule, the applicable state standard or regulation is included, where applicable, with the compliance review summary below.

Facility Summary

Francis House is a senior living facility in South Milwaukee, Wisconsin. Part of the services and amenities it offers to older adults consist of sixty-four (64) individual senior living and assisted living units. Francis House currently has 48 residents supported by [Family Care](#) (Medicaid waiver for long-term care). Francis House is a memory care setting and is part of a comprehensive campus of services including short-term rehabilitation, senior living apartments, assisted living and memory care. Memory care at Francis House provides older adults with Alzheimer's disease or other forms of memory loss with a safe environment supported by compassionate staff. Francis House is operated by Catholic Health Initiative (CHI) and Catholic Health Corporation (CHC), and is one of the

largest corporations serving seniors in the U.S. Francis House was built in 1999 and according to the website, “Francis House is Franciscan Villa’s 64-unit memory care assisted living facility. It is well regarded as a safe and comfortable haven for those with mid- to late-stage Alzheimer’s and dementia. With its secure and enclosed outside courtyards, Francis House offers peace of mind to family and friends while its neighborhood design with home-like atmosphere minimizes challenges and stress for residents. “In addition to Francis House, there are residential apartments, Franciscan Courts and skilled nursing, Franciscan Village. Residents of the Chi Living Campus enjoy community life and activities in the greater Milwaukee community.”

The setting is integrated in and supports full access to the greater community [42 CFR § 441.301(c)(4)(i)].

The community considers the setting a part of their community and does not associate the setting with institutional services.

Met Unmet Not Applicable

- Francis House is part of a mid-size senior living campus for approximately 400 residents, and described by volunteers, staff and family members as “a gem for services for seniors in the greater Milwaukee community.”
- During the onsite review, the reviewer met with a number of volunteers who are part of the Francis House program and they shared the viewpoint that Francis House, Franciscan Gardens and the entire campus are viewed as vital resources in Milwaukee for seniors and the assisted living apartments and units are well designed and home like. Although there are skilled nursing facilities on campus, volunteers expressed the necessity for “wrap around” services for community seniors.
- Prior to COVID-19, events at the campus were open to community residents. Additionally, there is a bakery and coffee shop where community residents dine.

Individuals, to the extent they desire, have opportunities to participate in typical community life activities outside of the setting.

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning: The plan must be based on an assessment that addresses the person’s “capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known” and “social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs.” (Summarized from [Wis. Admin. Code § DHS 83.35](#))

Program Services: Community activities. The CBRF shall provide information and assistance to facilitate participation in personal and community activities. The CBRF shall develop, update and make available to all residents, monthly schedules and notices of community activities, including costs. ([Wis. Admin. Code § DHS 83.38\(1\)\(d\)](#))

Family and social contacts: The CBRF shall encourage and assist residents in maintaining family and social contacts. (Wis. Admin. Code § DHS 83.38(1)(e))

Met Unmet Not Applicable

- A review of three person-centered plans included confirmation of social contacts with family and friends.
- Each resident in memory care is entitled to an individually designed personal trip in the community each month. Family outings, weekend trips are encouraged.
- Francis House is a CBRF with a resident population of “moderate dementia.” There are three CBRFs on campus, and Francis House has a great indoor program for activities to enhance memory care. Additionally, a volunteer council arranges for monthly activities for residents to access the community. Christmas sing-a-longs, church services. The reviewer was onsite at Francis House on Good Friday and there were a number of volunteers on hand for the service as well as transporting residents to a lunch (pre-COVID).

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- At the onsite review, the reviewer met with two family members who shared their experiences with the care that their relatives were receiving at Francis House and had very positive things to share, particularly about activity programs and engaging residents in memory care programs.

Activities are individualized or include more than just setting-based group activities.

Met Unmet Not Applicable

- Program materials state that the facility provides services that promote “individuality, encourage autonomy and freedom,” among others. Residents have the freedom to freely “Move about in the environment and free to choose how they wish to spend their time when given a variety of therapeutic and leisure options that focus on their abilities instead of their disabilities.”
- “Encourage and promote resident participation in activities that are of interest.”
- Each person-centered plan confirms that showing the resident has the freedom, as all residents, to make own choices about whether or not to participate in community activities.
- Extensive in-house and community programming planned for the residents, including lectures, art presentations, exercise classes, lectures, movies.
- Activity schedules developed for both group and individual participation.

The setting supports access to community activities through its own transportation or coordination of transportation options.

Met Unmet Not Applicable

- All of the CHI assisted living settings, including Francis House, have a formal transportation policy that outlines transportation options, which include the two (2) agency vans for appointments; public taxi and ride share services; volunteer drivers for appointments; training on public transportation options in the greater Milwaukee area.
- As part of the resident interviews during the onsite review, the reviewer asked each resident about transportation to appointments, activities, etc. All responses were positive to an abundance of transportation resources.
- Francis House does provide transportation to all community events on a sign-up basis and coordinates with each resident for family and volunteer transportation options.
- Transportation and level of needed assistance to arrange for transportation is documented in the resident’s person-centered plans.

Individuals, if they choose, have opportunities to seek employment and work in competitive integrated settings.

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning:

The plan must be based on an assessment that addresses the person’s “capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known” and “social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs.” ([WI Statewide Transition Plan](#); Summarized from [Wis. Admin. Code § DHS 83.35](#)).

From contract between DHS and specific MCOs:

V. Care Management:

C. Assessment and Member-Centered Planning Process

C.1. Comprehensive Assessment

C.1.(c) Documentation: The comprehensive assessment will include documentation by the IDT staff of:

C.1.(c)(viii) An exploration with the member of the member's preferences and opportunities for community integration including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community.

C.3. Member-Centered Planning

C.3.(c)(iv)(g) The setting in which the member resides supports integration into 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.

VII. Services

A. General Provisions

1. Comprehensive Service Delivery System

c. Serve to maintain community connections, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, and that are cost effective.

Addendum I

It is the DHS's "expectation under this contract that benefits will be fully integrated and will afford options that foster opportunities for interaction and integration into 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 while supporting each member's individual outcomes and recognizing each member's preferences."

Met Unmet Not Applicable

Although most of the residents of Francis House are retired, and many have some memory care issues, each resident is encouraged to continue their involvements in the community either through volunteering, participation in events, etc.

Individuals are able to control their personal resources.

Compliance within Wisconsin State Standards and Regulations

Every resident in a community-based residential facility has the right to "manage the resident's own financial affairs, unless the resident delegates, in writing, such responsibility to the facility and the facility accepts the responsibility or unless the resident delegates to someone else of the resident's choosing and that person accepts the responsibility." (Statewide Transition Plan; [Wis. Stat. § 50.09](#)).

Met Unmet Not Applicable

- Francis House resident policy and resident rights makes clear that each resident keeps their own funds, utilizes their own bank or if they choose, they may voluntarily deposit funds in the account managed by the setting and access to that account would be available during business hours and/or with prior arrangement.
- Submitted person-centered plans document each resident's personal finances and resources, how they manage funds, who manages their funds, etc.

The setting is selected by the individual from among setting options including non-disability specific settings. [42 CFR § 441.301(c)(4)(ii)].

Compliance within Wisconsin State Standards and Regulations

Wisconsin has protections in place for Medicaid waiver participants which ensure they understand their choices. DHS waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are responsible for discussing choice of service settings with the waiver participant and family/guardian to locate the most suitable provider setting, including a discussion of living in a non-disability specific setting. In practice, the waiver agencies are complying with this requirement, and documenting and monitoring the choice of settings in the member-centered plan or IRIS support and service plan, as applicable.

In Wisconsin, the choice of setting requirement is not the initial responsibility of the provider setting. Rather the choice of setting takes place through the person-centered planning process at the waiver agency level. Waiver agencies are certified by DHS and work within the requirements of contracts with DHS. Through ongoing monitoring, Wisconsin will ensure that individuals maintain the right to choose where they reside.

Additionally, Wisconsin has protections in place through *Pre-Admission Consultation (PAC)*: <https://www.dhs.wisconsin.gov/adrc/pros/pac.htm>.

“Pre-admission consultation is a service provided by Aging and Disability Resource Centers (ADRCs) to individuals who are in the process of considering or making a decision about the need to move out of his or her home in order to receive the help they need to remain independent and safe. Sometimes people are unaware that there are services and supports that can be provided right in their own home, often making a move unnecessary. Those who want to move into a nursing home or assisted living facility (such as a community based residential facility or residential care apartment complex), can find it difficult to know which facility would be the best for them or a loved one.”

Met Unmet Not Applicable

- A review of person-centered plans for Francis House confirms that the resident chose the setting from a choice of settings options, including non-disability specific settings.
- At the onsite review, the reviewer spoke with a group of residents at lunch and all of the residents indicated that they had “chosen to live at Francis House.” Two of the residents, prior to moving to assisted living and memory care, lived more independently at Franciscan Villa but chose to go into assisted living for additional support.

The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and resources available for room and board. [42 CFR § 441.301(c)(4)(ii)].

Compliance within Wisconsin State Standards and Regulations

“COMPREHENSIVE INDIVIDUAL SERVICE PLAN Individual service plan review. Annually or when there is a change in a resident's needs, abilities or physical or mental condition, the individual service plan shall be reviewed and revised based on the assessment under sub. (1). All reviews of the individual service plan shall include input from the resident or legal representative, case manager, resident care staff, and other service providers as appropriate.” ([Wis. Admin. Code § DHS 83.35 \(1\)\(d\)](#))

Met Unmet Not Applicable

- The *Resident Handbook* states that Francis House strives for each resident to live at the highest level of independence that they can maintain.
- Person centered planning supports that the setting is the individual’s home and should be thought of and supported with a focus on individuality, privacy, needs, likes and preferences.
- Dining options, which include a café, sandwich shop, dining room, observed during the onsite review and interviews conducted with the residents indicate that residents have a variety of choices for dining and access to food options at any time.
- Each resident is also free to decorate their apartments and during the onsite review, a sampling of the apartments revealed personal choice in furnishings.
- Person-centered planning includes input from the case manager, MCO, resident, social worker and family/legal representative.

The setting facilitates choice regarding services and supports, and who provides them. Individuals have a choice in selecting their service providers, and are not reliant on services from the institution to the exclusion of other community-based options. Individuals can choose to receive services in the community to the same degree as individuals not receiving Medicaid HCBS. [42 CFR § 441.301(c)(4)(v)]

Compliance within Wisconsin State Standards and Regulations

Before or at the time of admission, the CBRF shall provide written information regarding services available and the charges for those services to each resident or the resident's legal representative. This information shall include any charges for services not covered by the daily or monthly rate (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.29](#)).

Person-Centered Planning

1. "Options of services, providers, and settings, including non-disability specific settings, are offered to participants in all Wisconsin HCBS programs." (WI Statewide Transition Plan; Summarized from Wis. HCBS waivers, waiver-specific contracts, and policy documents.)
2. Residents have the right to "use the licensed, certified or registered provider of health care and pharmacist of the resident's choice." ([Wis. Stat. § 50.09](#))

Met Unmet Not Applicable

- *Francis House Residents' Rights Document, Choice of Attending Physician:* "You have the right to choose and see your own doctor."
- There are healthcare and medical providers at the Chi Living campus that the resident can choose but if they prefer to choose outside providers, Francis House makes transportation available to the residents and coordinates their appointments.
- During the onsite review, the reviewer spoke with family members who validated that their loved ones were free to select healthcare providers of their own choice.

The setting optimizes, but does 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. [42 CFR § 441.301(c)(4)(iv)]

Compliance within Wisconsin State Standards and Regulations

Rights: Licensees must protect the civil rights of residents. Residents have the right to make decision relating to care, activities, daily routines, and other aspects of life that enhance the resident's self-reliance and support the resident's autonomy and decision-making. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.32](#)).

Person-Centered Planning: The plan must be based on an assessment that addresses the person's capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known, and social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts, and vocational needs. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.35](#)).

"The CBRF shall teach residents the necessary skills to achieve and maintain the resident's highest level of functioning." The CBRF shall provide or arrange services adequate to meet the needs of the residents including providing leisure time activities, facilitating participation in community activities, and encouraging and assisting residents in maintaining family and social contacts. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.38](#)).

Rights: Residents have the right to make decisions relating to care, activities, daily routines, and other aspects of life that enhance the resident's self-reliance and support the resident's autonomy and decision making, and have the least restrictive conditions necessary to achieve the purposes of the resident's admission. The CBRF may not impose a curfew, rule, or other restriction on a resident's freedom of choice. (Statewide Transition Plan; Summarized from Wis. Admin. Code § DHS 83.32).

Met Unmet Not Applicable

- A review of the *Resident Handbook* confirms the right of each resident to enjoy individual choice, autonomy and independence in making choices about their activities, décor, living arrangements, daily routines, etc. Chi Communities' philosophy and approach is to focus on the lifestyles and values of seniors and respect for individuality, independence, dignity, choice, privacy and a strong sense of well-being.
- A review of three person-centered plans supported individual choice in activities, hobbies, religious observance, etc. In addition to person-centered plans, each resident has a wellness plan and an activity/recreational plan that assesses and documents interests, activities, involvement, etc.

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- During the onsite review, the reviewer spoke with a group of residents and asked specific questions regarding choice, daily activities, lifestyle and involvement and the consensus was that there were so many opportunities to engage in if you choose to do so. In fact, one resident said that the choices were “overwhelming” and there is more to do on a daily basis than the resident was doing prior to residing at the facility.

Individuals have the freedom and support to control their own schedules and activities. [42 CFR § 441.301(c)(4)(vi)(C)]

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning: The plan must be based on an assessment that addresses the person’s “capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known” and “social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs.” (Statewide Transition Plan, pg. 72; Summarized from Wis. Admin. Code § DHS 83.35) **Rights:** Licensees must protect the civil rights of residents. Residents have the right to make decision relating to care, activities, daily routines, and other aspects of life that enhance the resident’s self-reliance and support the resident’s autonomy and decision-making. (Summarized from Wis. Admin. Code § DHS 83.32)

Met Unmet Not Applicable

- The *Resident Handbook* outlines and confirms the opportunities for each resident to have freedom to live as active a lifestyle as desired. To that end, Francis House and Assisted Living at CHI Communities offers scheduled group outings, entertainment and activities, worship opportunities, wellness programs, etc.
- Francis House offers a home to each resident, encourages, and supports that each resident has the right to choose when he or she eat, when they sleep, whom they visit, who visits them and what they choose to engage in. Dining options are offered to allow made to order menus, snack and café options.
- Reviewer was able to meet with a crochet recreational group and each resident indicated that they had a variety of activities, experiences, etc. that were available to them and that they could choose and maintain their own schedules.

The setting ensures an individual’s rights of privacy, dignity and respect, and freedom from coercion and restraint, [42 CFR § 441.301(c)(4)(iii)].

Compliance within Wisconsin State Standards and Regulations

Rights: Residents have the right to be “treated with courtesy, respect and dignity by all employees of the facility and other providers of health care and pharmacists with whom the resident comes in contact.” ([Statewide Transition Plan](#), pg. 72; Summarized from [Wis. Stat. § 50.09](#)).

Residents must be provided with “physical and emotional privacy in treatment, living arrangements, and in caring for personal needs” including, privacy for visits by spouse or domestic partner, or to share a room with a spouse or domestic partner if both are residents for the same facility; privacy concerning health care; confidentiality of health and personal records; and the right to approve or refuse their release to any individual outside the facility. (Statewide Transition Plan, pg. 72; Summarized from Wis. Stat. § 50.09).

“Any form of coercion to discourage or prevent a resident or the resident’s legal representative from exercising any of the rights under this subchapter is prohibited. Any form of retaliation against a resident or the resident’s legal representative for exercising any of the rights in this subchapter, or against an employee or any other person who assists a resident or the resident’s legal representative in the exercise of any of the resident rights in this subchapter, is prohibited.” (Statewide Transition Plan, pg. 72; Wis. [Admin. Code § DHS 83.32](#)).

In addition, each resident shall have all of the following rights: freedom from mistreatment; freedom from seclusion; freedom from chemical restraint; and freedom from physical restraints, except upon prior review and approval by DHS upon written authorization from the resident’s primary physician or advanced practice nurse prescriber. DHS may place conditions on the use of a restraint to protect the health, safety, welfare, and rights of the resident. (Statewide Transition Plan; Summarized from Wis. Admin. Code § DHS 83.32).

Met Unmet Not Applicable

The *Resident Rights policy* addresses and ensures each of the requirements of 42 CFR § 441.301(c)(4)(iii). These requirements are confirmed through staff training and updates and clearly comply with all applicable federal, state and local laws regarding abuse/neglect, etc. As part of this policy, each resident is encouraged to sign the residents' rights protocol that ensures the facilities compliance with applicable statutes.

Individuals are able to have visitors of their choosing at any time. [42 CFR § 441.301(c)(4)(vi)(D)]

Compliance within Wisconsin State Standards and Regulations

Rights: Residents have the right to private and unrestricted communications with their family, physician or other medical provider, attorney, and any other person, unless documented as medically contraindicated. The right to private and unrestricted communications includes the right to reasonable access to a telephone for private communications; and the opportunity for private visits. (WI Statewide Transition Plan; Summarized from Wis. Stat. § 50.09).

Met Unmet Not Applicable

Resident Handbook, Resident Rights Section confirms the "right to private and unrestricted communication." Each resident has the right to private visitors and private visits as part of a reasonable visitor policy. The handbook asserts that the resident is responsible for guests that visit and that the setting will have defined guest rules.

Individuals have access to food at any time.

Compliance within Wisconsin State Standards and Regulations

The CBRF must provide each resident with palatable food that meets the recommended dietary allowance based on current guidelines, including at least three meals a day and a snack in the evening, or more often based on the resident's dietary needs. If a resident is away during meal time, the CBRF shall offer food to the resident on the resident's return. The CBRF shall make reasonable adjustments to the menu for individual resident likes, habits, customs, condition, and appetites. (Summarized from Wis. Admin. Code § DHS 83.41).

Met Unmet Not Applicable

- There are varieties of options for residents at Francis House for their meals and access to dining facilities. The main dining room provides three meals a day and each meal plan has optional choices based on the resident's likes and dietary needs. Meals can also be set aside and brought to the resident's apartments and there is a snack bar and a café in operation on campus.
- At the onsite visit, the reviewer met with member of the resident council and the feedback was that mealtime, meal selections were the most important issue for seniors.

The living unit is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services:

- The individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the applicable landlord/tenant laws.
- The State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law. [42 CFR § 441.301(c)(4)(vi)(A)]

Compliance within Wisconsin State Standards and Regulations

"Each resident shall have a written agreement that is signed by and provided to each party. The agreement includes a description of the space to be provided to the resident, the agreed upon rate, a statement of the resident's rights and the terms of termination, including timeframes. The agreement is updated annually." ([WI Statewide Transition Plan](#), pg. 77; [Wis. Admin. Code § DHS 83.29](#)).

The agreement must include terms for resident notification to the CBRF of voluntary discharge, and reasons and notice requirements for involuntary discharge or transfer, including transfers within the CBRF. (Summarized from [Wis. Admin. Code § DHS 83.31](#)).

Met Unmet Not Applicable

At the onsite review, sample leases and admission agreements confirmed to be in compliance in accordance with HCBS. The *Occupancy Agreement* confirms that individuals residing at Francis House Assisted Living occupy their residence under a legally enforceable occupancy agreement and that the individual enjoys the same responsibilities and protections from eviction by statute of their community. Residents of Francis House receive an agreement from CHI Communities Assisted Living agreement that meets the licensing requirements of WI Administrative Code DHS 83.29.

Overcoming Institutional Presumption

The setting demonstrated a meaningful physical distinction between the HCBS setting and the institutional setting, including separate entrances and signage, physical divisions, and differences in décor.

- A tour of the campus at the onsite review confirmed that the CBRF and the RCAC are separated from the SNF and the rehabilitation center. Although some of the settings are connected, there is separate signage for the CBRF, the RCAC and the SNF. Francis House is a separate house but does have a connection to the SNF.
- Photos submitted show a meaningful physical distinction between the HCBS setting, Francis House and the SNF.
- Beautiful and spacious residential living units were observed at the review. Each of the residents at Francis House brings his/her own furnishings and belongings to create their individual space.
- The SNF and the rehabilitation center rooms are institutionalized and simple in décor.

Each individual has privacy in their sleeping or living unit.

Compliance within Wisconsin State Standards and Regulations

Residents must be provided with “physical and emotional privacy in treatment, living arrangements, and in caring for personal needs” including, privacy for visits by spouse or domestic partner, or to share a room with a spouse or domestic partner if both are residents for the same facility; privacy concerning health care; confidentiality of health and personal records; and the right to approve or refuse their release to any individual outside the facility. (Statewide Transition Plan; Summarized from Wis. Stat. § 50.09).

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance surveyors that the setting (DQA, [E-02138](#), HCBS Compliance Review):

1. Provides lockable key entry doors on all resident rooms, and individual keys to all residents.
2. Has a policy ensuring that staff uses facility keys to enter a resident’s room only under circumstances agreed upon with the resident.

Met Unmet Not Applicable

- HCBS lock and privacy policy submitted for review. Confirmation that each resident has the right to privacy and personal choice. Verification of locked doors observed at the onsite review.
- Interview of a couple of staff confirm that there is a policy in place to protect privacy of residents.

Individual living units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.

Compliance within Wisconsin State Standards and Regulations

Locks on living unit doors allow the resident to exercise his or her right to privacy and personal choice. Staff in each residential setting should always knock and receive permission prior to entering a resident's living space. DHS expects the residential setting to have a policy in place to ensure that staff always knock and receive permission prior to entering a resident's room or personal living space to respect residents' rights to privacy. Please refer to DHS' [Frequently Asked Questions \(FAQs\) about Door Locks in Adult Long-Term Care Residential Settings](#) for additional lock-related information.

Met Unmet Not Applicable

- Key policy was reviewed and confirms that each resident has his or her own individual key. If a resident cannot handle a key, then it must be documented in their person-centered plan.
- Resident privacy and key policy confirms that staff must knock, ask permission before entering a resident's room.

Individuals sharing units have a choice of roommates in that setting.

Compliance within Wisconsin State Standards and Regulations

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance surveyors that residents have choice of roommates (DQA, [F-02138](#), HCBS Compliance Review):

Person-Centered Planning: Family Care Provider Network, I. Access to Providers: "For residential care facilities, evidence of adequate capacity shall include identification of the availability of residential providers offering private rooms, and a process for moving an individual to a private room when one becomes available that is consistent with the member's preferences." ([DHS-MCO Contract, Article VIII, I\(6\)d](#))

Met Unmet Not Applicable

If there were a roommate policy at Francis House, there would be choice but it is not applicable.

Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement. [42 CFR § 441.301(c)(4)(vi)(B)(1-3)]

Compliance within Wisconsin State Standards and Regulations

Met Unmet Not Applicable

- The Admission agreement, confirms that each individual has the right to furnish and decorate their apartments as they so choose. Review of person-centered plans confirm that each resident has a tenancy agreement.
- Confirmation of individual choice in décor confirmed through photos submitted and a tour of living units at the onsite review.

The setting is physically accessible to the individual. [42 CFR § 441.301(c)(4)(vi)(E)]

Compliance within Wisconsin State Standards and Regulations

Met Unmet Not Applicable

- Francis House, built in 1996, is physically accessible.
- At the onsite review, the reviewer confirmed that the entire campus, settings, walkways, driveways, etc. are physically accessible to residents. Outdoor spaces allow for wheelchairs and ramps lead in and out of the different houses.

Operational Distinction

The setting demonstrated meaningful operational distinction between the institution and the community-based setting, such as minimal administrative and financial interconnectedness.

Met Unmet Not Applicable

- At the onsite review, the CEO provided financial documents, line item budgets with cost centers for each of the facilities to compare operations. Although Francis House is a part of the CHI Living Communities, it operates semi-autonomously from the SNF and the CHI Corporation.
- A review of organizational charts for Assisted Living and Francis House, confirms that there is minimal administrative and supervisory connectedness between the SNF and the CBRF. Francis House has its own administrator as well as its own nursing supervisor.

There is a distinction between staff for the HCBS setting and the institutional setting. Staff working in the HCBS setting receive initial and ongoing training on HCBS settings rule requirements and principles, and person-centered planning.

Met Unmet Not Applicable

- Review of staff training, curriculum, staff verification of training indicates that there is initial cross training of staff across the campus but there is additional training for the HCBS settings, which includes Francis House.
- There is cross staffing for all the facilities, however the staff assigned to the CBRF and RCAC do not work in the SNF.

DHS Recommendation

DHS finds that [Francis House](#) possesses the required home and community-based characteristics, is not isolating in nature, and overcomes the presumption of having institutional qualities.

Please note that these findings are preliminary only and must receive final approval from CMS.

In accordance with federal requirements, all compliance results will be made public by DHS. The decision will appear on the subsequent upload of facility information to DHS websites, including the [DQA Provider Search webpage](#) and the provider directories available at the [Consumer Guide to Health Care – Finding and Choosing an Assisted Living Facility webpage](#).

Ongoing Compliance

Wisconsin's Division of Quality Assurance (DQA) will ensure through ongoing compliance reviews that [Francis House](#) continues to meet the requirements of the HCBS Settings Rule. The DMS Bureau of Assisted Living (BAL) has incorporated the HCBS settings rule into its current assisted living survey process and activities. ([DQA Implementation of Home and Community-Based Services Settings Rule in Residential Assisted Living Facilities](#))

Waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are certified by the Wisconsin Department of Health Services (DHS) and work within the requirements of contracts with DHS. State licensed settings are subject to unannounced licensing visits, both in response to complaints and during regular oversight visits, by the state licensing authority, or by the entity that certified the provider if not regulated by the state. As part of these periodic licensing or certification reviews, the credentialing entity will also review the setting for continued HCBS compliance. Providers will be required to address any HCBS rule deficiencies.

When HCBS participants are resident in the setting, waiver program care managers are required to have ongoing contact, including face-to-face visits, at which time any areas of concern would be identified and addressed. Each participant in a Medicaid home and community-based waiver program is further protected through the state's long-term care ombudsman program, which has regular access to the assisted living setting. [Wisconsin's Board on Aging & Long Term Care](#): The Board on Aging and Long Term Care advocates for the interests of Wisconsin's long-term care consumers, informs those consumers of their rights and

educates the public about health care systems and long-term care. The Board also operates the [Long Term Care Ombudsman](#), and [Volunteer Ombudsman](#) services.

EVIDENTIARY ASSESSMENT AND SUMMARY
Home and Community-Based Services (HCBS) Settings Rule
Heightened Scrutiny Review – Community-Based Residential Facility (CBRF)

Facility Name Heritage Center		Facility Type Community-Based Residential Facility (CBRF)	
Corporate Name (if applicable) Skaalen Nursing & Rehabilitation Center, Inc.		License/Certification # 111086	County Dane
Facility Address 400 N. Morris Street	City Stoughton	State WI	Zip Code 53589
Primary Contact Name Shari Kellog	Primary Contact Direct Phone (include area code) (608) 873-5651, ext. 731	Primary Contact Email Address skellogg@skaalen.com	
Facility Website Address www.skaalen.com			

Reason for Institutional Presumption

- Settings in a publicly or privately operated facility that provides inpatient institutional treatment. *Skaalen Nursing and Rehabilitation Center*
- Settings on the grounds of, or adjacent to, a public institution. Name of institution:
- Settings with the effect of isolating individuals from the broader community of individuals not receiving HCBS waiver services.

The Centers for Medicare and Medicaid Services' (CMS) HCBS settings rule assumes that certain settings are not home and community-based. If a Wisconsin assisted living facility (setting) meets one of the criteria for institutional presumption as defined above, the DHS Division of Medicaid Services (DMS) conducts a heightened scrutiny review.

DMS believes that *Heritage Center* has overcome the institutional presumption and meets the criteria of a home and community-based services setting as summarized below.

To reinforce the extent to which Wisconsin's licensing and certification regulations and standards align with and reinforce the HCBS settings rule, the applicable state standard or regulation is included, where applicable, with the compliance review summary below.

Facility Summary

Located on the campus of Skaalen's senior community in Stoughton, Wisconsin, Heritage Center is licensed by the State of Wisconsin as a Community Based Residential Facility (CBRF). The Heritage Center shares a 110-acre campus with an RCAC, as well as a SNF, Rehabilitation Center, and the Skaalen Therapy and Wellness Center. There are 50 private living units at the Heritage Center, and currently there are eight residents supported by *Family Care*. Stoughton is located about 15 miles from Madison, Wisconsin and is the home of Livsreise, the Norwegian Heritage Center, and Lake Kegonsa State Park. The Heritage Center promotes independent living and offers a wide array of services for the senior population.

The setting is integrated in and supports full access to the greater community [42 CFR § 441.301(c)(4)(i)].

The community considers the setting a part of their community and does not associate the setting with institutional services.

Met Unmet Not Applicable

- Following a site visit in 2019, reviewers observed that the setting was community based. The reviewers met and spoke with several residents and non-resident community members, some of whom had worked for decades at the setting prior to their retirement, had relatives currently living at the setting, or had lived there. They informed the reviewers that the setting is fully integrated into the community and supports full access to activities in the larger community. The meeting was held in a large community room with a fireplace, television set, library shelves full of books, wall decorations, pictures and a large piano, all of which gave a warm feeling. The reviewers heard stories and examples of movie and poetry events that residents attend outside the setting, and the rich Norwegian history of the setting and the community. The residents learn of these events through the monthly community newsletters, newspapers, and word of mouth.
- Skaalen campus offers a comprehensive Wellness and Therapy center, which is available to residents in Dane County. Additionally, the Norwegian Center conducts classes at Skaalen for residents in the community as well as residents at Skaalen.
- Activities are regularly scheduled on campus and include weekly animal therapy visits, Alzheimer’s support groups, summer concert series and art exhibits, which are open to the community and to the residents at Heritage Center.

Individuals, to the extent they desire, have opportunities to participate in typical community life activities outside of the setting.

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning: The plan must be based on an assessment that addresses the person’s “capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known” and “social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs.” (Summarized from [Wis. Admin. Code § DHS 83.35](#))

Program Services: Community activities. The CBRF shall provide information and assistance to facilitate participation in personal and community activities. The CBRF shall develop, update and make available to all residents, monthly schedules and notices of community activities, including costs. ([Wis. Admin. Code § DHS 83.38\(1\)\(d\)](#))

Family and social contacts: The CBRF shall encourage and assist residents in maintaining family and social contacts. ([Wis. Admin. Code § DHS 83.38\(1\)\(e\)](#))

Met Unmet Not Applicable

- An activity assessment is conducted for each resident upon admission and will “provide and promote planned social, educational, and recreational programs to meet individual needs.” Each person-centered plan includes a section called, Socialization/Activities ISP, which identifies the resident’s, needs, desires and choices in activities and leisure time pursuits.
- Program statement confirms that person-centered planning is individual, focused, and includes separate sections highlighting activity interests, family and community, hobbies, volunteer interest, etc.
- A review of a person-centered plan described a resident’s activity interest and choice: “Each day, I like to do my exercises at the Therapy Center and I love the warm water pool. My daughter joins me every other week at the warm water pool.”
- Program statement encourages “family members to dine with their loved one whenever possible (guest meal prices provided in admission documents). The facility will provide, for a small fee, family dinners and social luncheons in our dining area upon your request. In addition, the facility may host family picnics and suppers from time to time, which we encourage family members to participate in.”

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- A review of person-centered plans during COVID-19 demonstrated that Heritage Center creates opportunities for each resident to visit with family members through Face Time and has arranged visits, at the facility, with outside social distancing, etc.

Activities are individualized or include more than just setting-based group activities.

Met Unmet Not Applicable

- A resident testimonial offered: “Heritage Center continues to allow me the freedom to enjoy things I love in the community and with my family. They allow me to have a purpose and I am satisfied with everything that is offered here at Skaalen.”
- “As part of their community outreach, Livereise, the Norwegian Heritage Center has been happy to welcome Skaalen residents to the museum. The Skaalen staff have been diligent in bringing small groups and this is a testament to their belief that each individual is a person first and a diagnosis second.” (Norwegian Heritage Center)
- Activities scheduled offer a wide variety of individual choice- Garden clubs on campus, poetry and reading groups, community events, etc. A comprehensive activity, recreational and social assessment is conducted for each resident upon admission at Heritage Center.
- *Heritage Center ISP Planning Process (1)(C)* “... areas of assessment, at a minimum should include the following: Physical health, medications, presence and intensity of pain, required nursing procedures, mental and emotional health, behaviors, risks for coking, falling and elopement, capacity for self-direction, social participation including leisure time activities, family and community contact and vocational needs if applicable.”

The setting supports access to community activities through its own transportation or coordination of transportation options.

Met Unmet Not Applicable

- At the onsite review, the reviewers spoke with a number of residents who indicated that transportation is available through Heritage for medical and healthcare appointments. Additionally, there are vans available to take residents shopping and to community events.
- The Heritage Center residential agreement states “The Heritage Center will make available to residents scheduled transportation for shopping, medical, dental appointments and a variety of planned social events.” There are no charges for local group transportation.”
- Public transportation is also available along with cab and ride-share services.

Individuals, if they choose, have opportunities to seek employment and work in competitive integrated settings.

Met Unmet Not Applicable

Although the entirety of the residents do not work outside of the setting at the Heritage Center, volunteer positions are actively encouraged and there are a number of residents who volunteer on the Skaalen campus leading reading groups, warm therapy pool classes, Norwegian history classes, etc. A review of three person-centered plans highlighted these residents and their volunteer activities.

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning:

The plan must be based on an assessment that addresses the person’s “capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known” and “social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs.” ([WI Statewide Transition Plan](#); Summarized from [Wis. Admin. Code § DHS 83.35](#)).

From contract between DHS and specific MCOs:

V. Care Management:

C. Assessment and Member-Centered Planning Process

C.1. Comprehensive Assessment

C.1.(c) Documentation: The comprehensive assessment will include documentation by the IDT staff of:

C.1.(c)(viii) An exploration with the member of the member’s preferences and opportunities for community integration including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community.

C.3. Member-Centered Planning

C.3.(c)(iv)(g) The setting in which the member resides supports integration into 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.

VII. Services

A. General Provisions

1. Comprehensive Service Delivery System

c. Serve to maintain community connections, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, and that are cost effective.

Addendum I

It is the DHS’s “expectation under this contract that benefits will be fully integrated and will afford options that foster opportunities for interaction and integration into 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 while supporting each member’s individual outcomes and recognizing each member’s preferences.”

Met Unmet Not Applicable

- Heritage Center residents, supported with waiver funding, participate in ongoing and regularly scheduled MCP process, which includes a section on volunteering, education, workshops and employment. Although the majority of the residents at the Heritage Center are elderly and retired, there are a few residents that continue volunteering and three residents volunteer in campus programs.
- A review of three person-centered MCO plans confirmed that each resident is entitled to:
 - Choice of long-term care setting
 - Personal and daily living routines preferences
 - Right to individual selection of activities
 - Right to privacy – key and privacy policies
- *Resident’s Rights Policy, (k), Self-Determination:* “You have the right to make decisions as they relate to your daily care, activities, daily routines and other aspects of life which enhance the resident’s self- reliance.”

Individuals are able to control their personal resources.

Compliance within Wisconsin State Standards and Regulations

Every resident in a community-based residential facility has the right to “manage the resident’s own financial affairs, unless the resident delegates, in writing, such responsibility to the facility and the facility accepts the responsibility or unless the resident delegates to someone else of the resident’s choosing and that person accepts the responsibility.” (Statewide Transition Plan; [Wis. Stat. § 50.09](#)).

Met Unmet Not Applicable

- Each resident has the right to handle his or her personal and financial resources.
- If a resident chooses to establish a fund at the setting, the policy on Access to personal funds confirms:

- Each resident will have the opportunity to open a resident personal account at admission
- The amount of \$\$ in the account will be determined by the resident
- \$\$ are available and accessible at the reception desk on weekdays, weekends and holidays, generally from 7:30 am-6:30pm

The setting is selected by the individual from among setting options including non-disability specific settings. [42 CFR § 441.301(c)(4)(ii)].

Compliance within Wisconsin State Standards and Regulations

Wisconsin has protections in place for Medicaid waiver participants which ensure they understand their choices. DHS waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are responsible for discussing choice of service settings with the waiver participant and family/guardian to locate the most suitable provider setting, including a discussion of living in a non-disability specific setting. In practice, the waiver agencies are complying with this requirement, and documenting and monitoring the choice of settings in the member-centered plan or IRIS support and service plan, as applicable.

In Wisconsin, the choice of setting requirement is not the initial responsibility of the provider setting. Rather the choice of setting takes place through the person-centered planning process at the waiver agency level. Waiver agencies are certified by DHS and work within the requirements of contracts with DHS. Through ongoing monitoring, Wisconsin will ensure that individuals maintain the right to choose where they reside.

Additionally, Wisconsin has protections in place through *Pre-Admission Consultation (PAC)*: <https://www.dhs.wisconsin.gov/adrc/pros/pac.htm>.

“Pre-admission consultation is a service provided by Aging and Disability Resource Centers (ADRCs) to individuals who are in the process of considering or making a decision about the need to move out of his or her home in order to receive the help they need to remain independent and safe. Sometimes people are unaware that there are services and supports that can be provided right in their own home, often making a move unnecessary. Those who want to move into a nursing home or assisted living facility (such as a community based residential facility or residential care apartment complex), can find it difficult to know which facility would be the best for them or a loved one.”

Met Unmet Not Applicable

A review of six person-centered plans confirmed that each of the residents attested to “I have been given a choice of the setting in which to live in and am understanding that I have a right to change my mind as it relates to choice of setting I reside at.”

The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and resources available for room and board. [42 CFR § 441.301(c)(4)(ii)].

Compliance within Wisconsin State Standards and Regulations

“COMPREHENSIVE INDIVIDUAL SERVICE PLAN Individual service plan review. Annually or when there is a change in a resident's needs, abilities or physical or mental condition, the individual service plan shall be reviewed and revised based on the assessment under sub. (1). All reviews of the individual service plan shall include input from the resident or legal representative, case manager, resident care staff, and other service providers as appropriate.” ([Wis. Admin. Code § DHS 83.35 \(1\)\(d\)](#))

Met Unmet Not Applicable

- ISP Policy and procedure document identifies the following key elements of person-centered planning:
 - The ISP will include the identification of the resident’s needs and desired outcomes.
 - Program services, frequency of service and CBRF approaches
 - Include measurable goals and reviewed annually or when there is a significant change in the resident’s needs and abilities
 - The resident or legal representative must sign the ISP

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- A review of three person-centered plan confirm that the resident is involved and signs his/her ISP; abilities for daily living activities assessed and strategies are developed to meet the ADLs; case managers, outside providers are also part of the ISP planning.

The setting facilitates choice regarding services and supports, and who provides them. Individuals have a choice in selecting their service providers, and are not reliant on services from the institution to the exclusion of other community-based options. Individuals can choose to receive services in the community to the same degree as individuals not receiving Medicaid HCBS. [42 CFR § 441.301(c)(4)(v)]

Compliance within Wisconsin State Standards and Regulations

Before or at the time of admission, the CBRF shall provide written information regarding services available and the charges for those services to each resident or the resident's legal representative. This information shall include any charges for services not covered by the daily or monthly rate (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.29](#)).

Person-Centered Planning

- "Options of services, providers, and settings, including non-disability specific settings, are offered to participants in all Wisconsin HCBS programs." (WI Statewide Transition Plan; Summarized from Wis. HCBS waivers, waiver-specific contracts, and policy documents.)
- Residents have the right to "use the licensed, certified or registered provider of health care and pharmacist of the resident's choice." ([Wis. Stat. § 50.09](#))

Met Unmet Not Applicable

- Cover letter, page 4 under Service Plans confirms that "Individuals have choice of physician and other health providers."
- The resident makes all healthcare services and chose of providers and the facility will assist in arranging and providing for transportation to appointments.

The setting optimizes, but does 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. [42 CFR § 441.301(c)(4)(iv)]

Compliance within Wisconsin State Standards and Regulations

Rights: Licensees must protect the civil rights of residents. Residents have the right to make decision relating to care, activities, daily routines, and other aspects of life that enhance the resident's self-reliance and support the resident's autonomy and decision-making. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.32](#)).

Person-Centered Planning: The plan must be based on an assessment that addresses the person's capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known, and social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts, and vocational needs. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.35](#)).

"The CBRF shall teach residents the necessary skills to achieve and maintain the resident's highest level of functioning." The CBRF shall provide or arrange services adequate to meet the needs of the residents including providing leisure time activities, facilitating participation in community activities, and encouraging and assisting residents in maintaining family and social contacts. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.38](#)).

Rights: Residents have the right to make decisions relating to care, activities, daily routines, and other aspects of life that enhance the resident's self-reliance and support the resident's autonomy and decision making, and have the least restrictive conditions necessary to achieve the purposes of the resident's admission. The CBRF may not impose a curfew, rule, or other restriction on a resident's freedom of choice. (Statewide Transition Plan; Summarized from Wis. Admin. Code § DHS 83.32).

Met Unmet Not Applicable

- Resident Rights policy outlines the following rights and each resident is given a copy of the policy and the policy is posted in the main lobby:

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- “You may receive visitors at times of your choice.”
 - “There is no curfew at the Heritage Center CBRF”
 - Cover letter, page 6: “We have no structured visiting hours, individuals are free to come and go, as they desire as long as their [sic] safe and their service supports this.”

Individuals have the freedom and support to control their own schedules and activities. [42 CFR § 441.301(c)(4)(vi)(C)]

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning: The plan must be based on an assessment that addresses the person’s “capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known” and “social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs.” (Statewide Transition Plan, pg. 72; Summarized from Wis. Admin. Code § DHS 83.35) Rights: Licensees must protect the civil rights of residents. Residents have the right to make decision relating to care, activities, daily routines, and other aspects of life that enhance the resident’s self-reliance and support the resident’s autonomy and decision-making. (Summarized from Wis. Admin. Code § DHS 83.32)

Met Unmet Not Applicable

- Submitted cover letter, page 6: Residents have the freedom to choose services outside of that provided by the organization. These include:
 - Access to public transportation, family transportation or facility if desired.
 - Individuals leave campus to maintain relations with community beauty shops.
- Residential program director provided a cover letter citing evidence that residents are not reliant on services, activities from the institution:
 - Residents are free to come and go as they please.
 - Residents can choose multiple outings each month.
 - Residents can attend church service on the Skaalen campus or they may go out and attend their own church service in the community.
 - Resident can leave the building for overnight visits with family.

The setting ensures an individual’s rights of privacy, dignity and respect, and freedom from coercion and restraint, [42 CFR § 441.301(c)(4)(iii)].

Compliance within Wisconsin State Standards and Regulations

Rights: Residents have the right to be “treated with courtesy, respect and dignity by all employees of the facility and other providers of health care and pharmacists with whom the resident comes in contact.” ([Statewide Transition Plan](#), pg. 72; Summarized from [Wis. Stat. § 50.09](#)).

Residents must be provided with “physical and emotional privacy in treatment, living arrangements, and in caring for personal needs” including, privacy for visits by spouse or domestic partner, or to share a room with a spouse or domestic partner if both are residents for the same facility; privacy concerning health care; confidentiality of health and personal records; and the right to approve or refuse their release to any individual outside the facility. (Statewide Transition Plan, pg. 72; Summarized from Wis. Stat. § 50.09).

“Any form of coercion to discourage or prevent a resident or the resident’s legal representative from exercising any of the rights under this subchapter is prohibited. Any form of retaliation against a resident or the resident’s legal representative for exercising any of the rights in this subchapter, or against an employee or any other person who assists a resident or the resident’s legal representative in the exercise of any of the resident rights in this subchapter, is prohibited.” (Statewide Transition Plan, pg. 72; Wis. [Admin. Code § DHS 83.32](#)).

In addition, each resident shall have all of the following rights: freedom from mistreatment; freedom from seclusion; freedom from chemical restraint; and freedom from physical restraints, except upon prior review and approval by DHS upon written authorization from the resident’s primary physician or advanced

practice nurse prescriber. DHS may place conditions on the use of a restraint to protect the health, safety, welfare, and rights of the resident. (Statewide Transition Plan; Summarized from Wis. Admin. Code § DHS 83.32).

Met Unmet Not Applicable

Resident Right's policy ensures:

- Each residents will receive prompt and adequate treatment.
- The setting shall “safeguard residents from environmental hazards.
- You will be free from physical, mental and sexual abuse. You will be free from neglect, from financial exploitation and misappropriation of property.
- You will be free from chemical restraints, free from seclusions and free from the use of physical restraints.
- You have the right to participate in developing and reviewing your plan of care and to be fully informed of your care and treatment options.

Individuals are able to have visitors of their choosing at any time. [42 CFR § 441.301(c)(4)(vi)(D)]

Compliance within Wisconsin State Standards and Regulations

Rights: Residents have the right to private and unrestricted communications with their family, physician or other medical provider, attorney, and any other person, unless documented as medically contraindicated. The right to private and unrestricted communications includes the right to reasonable access to a telephone for private communications; and the opportunity for private visits. (WI Statewide Transition Plan; Summarized from Wis. Stat. § 50.09).

Met Unmet Not Applicable

Cover letter, page 6: “We have no structured visiting hours, individuals are free to come and go, as they desire as long as their [sic] safe and their service supports this.”

Individuals have access to food at any time.

Compliance within Wisconsin State Standards and Regulations

The CBRF must provide each resident with palatable food that meets the recommended dietary allowance based on current guidelines, including at least three meals a day and a snack in the evening, or more often based on the resident's dietary needs. If a resident is away during meal time, the CBRF shall offer food to the resident on the resident's return. The CBRF shall make reasonable adjustments to the menu for individual resident likes, habits, customs, condition, and appetites. (Summarized from Wis. Admin. Code § DHS 83.41).

Met Unmet Not Applicable

A review of the program statement confirms that:

- Residents are entitled to three (3) meals each day and access to snacks and beverages. ISPs will reflect individual preferences, diet and dietary concerns.
- Residents have access to food, snacks and leftovers-labeled and stored in the common area.
- Residents may have small refrigerators in their living units.
- Menus are provided to residents on a weekly basis and there are always choices of sandwiches and other foods at each meal.

The living unit is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services:

- The individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the applicable landlord/tenant laws.
- The State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law. [42 CFR § 441.301(c)(4)(vi)(A)]

Compliance within Wisconsin State Standards and Regulations

“Each resident shall have a written agreement that is signed by and provided to each party. The agreement includes a description of the space to be provided to the resident, the agreed upon rate, a statement of the resident’s rights and the terms of termination, including timeframes. The agreement is updated annually.” ([WI Statewide Transition Plan](#), pg. 77; [Wis. Admin. Code § DHS 83.29](#)).

The agreement must include terms for resident notification to the CBRF of voluntary discharge, and reasons and notice requirements for involuntary discharge or transfer, including transfers within the CBRF. (Summarized from [Wis. Admin. Code § DHS 83.31](#)).

Met Unmet Not Applicable

The Heritage Center *Admission Agreement* states that the facility will provide the resident or resident’s legal Representative a 30-days’ written notice of any changes in service, and a 30-day notice before any changes go in to effect such as prior to a room transfer, price or rate changes. Refunds are prorated if resident gives 30-day notice prior to transfer or discharge, unless it is due to change in condition as specified in the admission agreement. The Heritage Center will provide a 30-day notice for termination in case of failure to pay, compliance with the rules of the *Resident Handbook*, etc.

Overcoming Institutional Presumption

The setting demonstrated a meaningful physical distinction between the HCBS setting and the institutional setting, including separate entrances and signage, physical divisions, and differences in décor.

Met Unmet Not Applicable

- At the onsite review, the reviewer’s observation was that décor at the setting was distinct from that of the institution. Individuals bring unique personal effects and décors that present a personal appearance to, for instance, an individual’s room. Some of the décors were hand woven.
- Floor plans, building plans and photos demonstrate that there is a meaningful physical distinction between the Heritage Center (HCBS setting) and the SNF. The Heritage Center is physically attached to the SNF, the CBRF occupies two floors and the CBRF’s corridors are not shared with the SNF.
- The doors that separate the SNF from the CBRF have a 2-hour fire separation. Heritage Center is located on the second and third floors and there are separate points of access through elevators and stairwells.
- All of the rooms in the CBRF are private and residents decorate their apartments as they choose. At the onsite review, the reviewers were able to see a couple of living units, which were homey and inviting.

Each individual has privacy in their sleeping or living unit.

Compliance within Wisconsin State Standards and Regulations

Residents must be provided with “physical and emotional privacy in treatment, living arrangements, and in caring for personal needs” including, privacy for visits by spouse or domestic partner, or to share a room with a spouse or domestic partner if both are residents for the same facility; privacy concerning health care; confidentiality of health and personal records; and the right to approve or refuse their release to any individual outside the facility. (Statewide Transition Plan; Summarized from Wis. Stat. § 50.09).

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance surveyors that the setting (DQA, [F-02138](#), HCBS Compliance Review):

- Provides lockable key entry doors on all resident rooms, and individual keys to all residents.
- Has a policy ensuring that staff uses facility keys to enter a resident’s room only under circumstances agreed upon with the resident.

Met Unmet Not Applicable

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- Each living unit has a secured lockable entry door and each resident, upon admission, gets a key. If, after the initial assessment it is determined that the resident cannot or choose not to have a key, this will be documented in their person-centered plan.
 - Written key policy and privacy policy submitted.
-

Individual living units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.

Compliance within Wisconsin State Standards and Regulations

Locks on living unit doors allow the resident to exercise his or her right to privacy and personal choice. Staff in each residential setting should always knock and receive permission prior to entering a resident's living space. DHS expects the residential setting to have a policy in place to ensure that staff always knock and receive permission prior to entering a resident's room or personal living space to respect residents' rights to privacy. Please refer to DHS' [Frequently Asked Questions \(FAQs\) about Door Locks in Adult Long-Term Care Residential Settings](#) for additional lock-related information.

Met Unmet Not Applicable

- *Key Policy*: "All staff members are required to knock and acknowledge themselves before entry to a living unit."
 - Heritage Center caregiving staff members will carry a master key to allow access to the living unit in the event of an emergency, wellness check or resident's permission to center.
 - Heritage Center *Key Assessment Tool* identifies potential problems, risks, etc. regarding the resident's ability to handle a key, a resident's willingness to handle a key, etc. The resident and/or a legal representative sign the assessment.
-

Individuals sharing units have a choice of roommates in that setting.

Compliance within Wisconsin State Standards and Regulations

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance surveyors that residents have choice of roommates (DQA, [F-02138](#), HCBS Compliance Review)

Person-Centered Planning: Family Care Provider Network, I. Access to Providers: "For residential care facilities, evidence of adequate capacity shall include identification of the availability of residential providers offering private rooms, and a process for moving an individual to a private room when one becomes available that is consistent with the member's preferences." ([DHS-MCO Contract, Article VIII, I\(6\)d](#))

Met Unmet Not Applicable

Currently, all living units are single occupancy. Spouses who reside at Skaalen may request to share a living unit.

Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement. [42 CFR § 441.301(c)(4)(vi)(B)(1-3)]

Compliance within Wisconsin State Standards and Regulations

Every resident in a community-based residential facility shall have the right to retain and use personal clothing and effects and to retain, as space permits, other personal possessions in a reasonably secure manner. (Summarized from Wis. Stat. § 50.09)

Met Unmet Not Applicable

- The Heritage Center's *Residence and Service Agreement* includes the following:
 - Furnishings: "You may furnish your suite with your own furniture. You are free to bring minor appliances and special equipment".
 - "Residents are encouraged to provide their own furnishings and the Heritage Center will provide ample space for furnishings.
 - At the onsite review, the reviewers observed well-designed and organized spaces for resident belongings, bed and furnishings.
-

The setting is physically accessible to the individual. [42 CFR § 441.301(c)(4)(vi)(E)]

Compliance within Wisconsin State Standards and Regulations

The bedroom and congregate dining and living area for any resident requiring a specified level of care and who is blind or not fully ambulatory shall be on the first floor. (Summarized from Wis. Admin. Code § DHS 83.50)

Bedrooms shall be designed and equipped to allow residents to achieve the highest level of independent functioning and shall be fully accessible to the resident. Within the bedroom, each resident shall have, or be provided with a closet or wardrobe with clothes hanging rods and shelves, and drawer space adequate to reasonably meet the needs of the resident. The bedroom shall have adequate accessible space for a resident's wheelchair or other adaptive or prosthetic equipment. (Summarized from Wis. Admin. Code § DHS 83.54)

Met Unmet Not Applicable

- At the onsite review, each of the apartments that the reviewers toured had accessible bathrooms and bedrooms.
- A tour of the facility, the CBRF and the SNF entrances confirmed that access to the CBRF is fully accessible and access to the dining and common areas are physically and fully accessible.

Operational Distinction

The setting demonstrated meaningful operational distinction between the institution and the community-based setting, such as minimal administrative and financial interconnectedness.

Met Unmet Not Applicable

- Cover letter detailing evidence of overcoming institutional presumption confirmed “Heritage Center in conjunction with Skaalen Retirement Services are an affiliated ministry of the Lutheran Church, committed to providing excellent care, housing and services to older adults and persons in need.
- Operationally, the Heritage Center has a separate CBRF director as well as Resident Assistants assigned and work exclusively at the CBRF.
- At the onsite review, reviewers, reviewed financial documents showing the setting does have separate business line for the CBRS and the Skilled Nursing Facility.
- The Heritage Center has a separate operating budget apart from Skaalen services but the CBRF does share costs with the SNF, RCAC and other campus programs.

There is a distinction between staff for the HCBS setting and the institutional setting. Staff working in the HCBS setting receive initial and ongoing training on HCBS settings rule requirements and principles, and person-centered planning.

Met Unmet Not Applicable

- Submitted addendums to the training curriculum include training for HCBS, resident's rights and Family Care programs.
- Heritage Center's *Training Policies* confirm: “Front-line staff at the center is exclusive to the center and do not cross train or work in other settings.”
- The Heritage Center's curriculum, developed by [Leading Age Wisconsin](#), is specific to assisted living and CBRF requisites.
- In addition to mandated CBRF training, the Heritage Center trains all CBRF staff in the HCBS settings rules, the State of Wisconsin's HCBS Statewide Transition Plan, HCBS Heightened Scrutiny Review, and [Family Care](#).

DHS Recommendation

Wisconsin can attest that [Heritage Center](#) possesses the required home and community-based characteristics, is not isolating in nature, and overcomes the presumption of having institutional qualities.

Please note that these findings are preliminary only and must receive final approval from CMS.

In accordance with federal requirements, all compliance results will be made public by DHS. The decision will appear on the subsequent upload of facility information to DHS websites, including the [DQA Provider Search webpage](#) and the provider directories available at the [Consumer Guide to Health Care – Finding and Choosing an Assisted Living Facility webpage](#).

Ongoing Compliance

Wisconsin's Division of Quality Assurance (DQA) will ensure through ongoing compliance reviews that [Heritage Center](#) continues to meet the requirements of the HCBS Settings Rule. The DMS Bureau of Assisted Living (BAL) has incorporated the HCBS settings rule into its current assisted living survey process and activities. ([DQA Implementation of Home and Community-Based Services Settings Rule in Residential Assisted Living Facilities](#))

Waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are certified by the Wisconsin Department of Health Services (DHS) and work within the requirements of contracts with DHS. State licensed settings are subject to unannounced licensing visits, both in response to complaints and during regular oversight visits, by the state licensing authority, or by the entity that certified the provider if not regulated by the state. As part of these periodic licensing or certification reviews, the credentialing entity will also review the setting for continued HCBS compliance. Providers will be required to address any HCBS rule deficiencies.

When HCBS participants are resident in the setting, waiver program care managers are required to have ongoing contact, including face-to-face visits, at which time any areas of concern would be identified and addressed. Each participant in a Medicaid home and community-based waiver program is further protected through the state's long-term care ombudsman program, which has regular access to the assisted living setting. [Wisconsin's Board on Aging & Long Term Care](#): The Board on Aging and Long Term Care advocates for the interests of Wisconsin's long-term care consumers, informs those consumers of their rights and educates the public about health care systems and long-term care. The Board also operates the [Long Term Care Ombudsman](#), and [Volunteer Ombudsman](#) services.

EVIDENTIARY ASSESSMENT AND SUMMARY
Home and Community-Based Services (HCBS) Settings Rule
Heightened Scrutiny Review – Community-Based Residential Facility (CBRF)

Facility Name Hillview Senior Living - Mondovi		Facility Type Community-Based Residential Facility (CBRF)	
Corporate Name (if applicable) American Lutheran Communities - Mondovi		License/Certification # 0014061	County Buffalo
Facility Address 210 Memorial Drive	City Mondovi	State WI	Zip Code 54755
Primary Contact Name: Tonya Lisowski	Primary Contact Direct Phone (incl. area code) 715-926-4962	Primary Contact Email Address: Tonya.lisowski@graceluthfound.com	
Facility Website Address https://www.americanlutheranhomes.com/facilities/hillview			

Reason for Institutional Presumption

- Settings in a publicly or privately operated facility that provides inpatient institutional treatment. Name of institution: [Hillview Senior Living - Mondovi](#)
- Settings in a building on the grounds of, or adjacent to, a public institution. Name of institution: [Hillview Senior Living - Mondovi](#)
- Settings with the effect of isolating individuals from the broader community of individuals not receiving HCBS waiver services.

The Centers for Medicare and Medicaid Services' (CMS) HCBS settings rule assumes that certain settings are not home and community-based. If a Wisconsin assisted living facility (setting) meets one of the criteria for institutional presumption as defined above, the DHS Division of Medicaid Services (DMS) conducts a heightened scrutiny review.

DMS believes that [Hillview Senior Living - Mondovi](#) has overcome the institutional presumption and meets the criteria of a home and community-based services setting as summarized below.

To reinforce the extent to which Wisconsin's licensing and certification regulations and standards align with and reinforce the HCBS settings rule, the applicable state standard or regulation is included, where applicable, with the compliance review summary below.

Facility Summary: Hillview Senior Living is a 38-bed Community Based Residential Facility operating under the corporate ownership of American Lutheran Homes. Located in Mondovi, Wisconsin, Hillview is a single-story, handicapped accessible facility designed to promote independence and well-being for all of its residents. Each resident is carefully assessed to determine care options and services with the major emphasis on person centered, self-directed individualized care plans. Hillview Senior Living promotes and supports family involvement and volunteer participation from the greater Mondovi community. Each resident enjoys the comfort and security of a private room, furnished by the resident. Currently, there are 38 residents at Hillview Senior Living, and 15 of the residents are supported through [Family Care](#) Medicaid long-term care funding.

The setting is integrated in and supports full access to the greater community [42 CFR § 441.301(c) (4) (i)].

The community considers the setting a part of their community and does not associate the setting with institutional services.

Met Unmet Not Applicable

- The Hillview Senior Living Admission Statement (Page 13), under the *Outings Section*- “Residents are encouraged to continue to participate in their community, family life as much as possible.” “Family and friends are encouraged to visit, bring food and all are welcome”.
- Gary Preston, Hillview Senior Living Chaplain provided the following testimonial- “In 1975, there was no Hillview Senior Living which would have been wonderful for my grandparents.” When I came to Hillview Senior Living in 2010, as a team member, I have been dedicated to making Hillview Senior Living a “home away from home” and a vital resource for our community.
- At a Resident Council Meeting prior to COVID-19, a group of residents wrote: “We go to the casino once a month, we come and go as we please, some of us sing in our local church choirs, we love the fish fries at the Lima and Durand churches, and each Halloween, we host “Halloween on the Hill” for our community friends.

Individuals, to the extent they desire, have opportunities to participate in typical community life activities outside of the setting.

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning: The plan must be based on an assessment that addresses the person’s “capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known” and “social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs.” (Summarized from [Wis. Admin. Code § DHS 83.35](#))

Program Services: Community activities. The CBRF shall provide information and assistance to facilitate participation in personal and community activities. The CBRF shall develop, update and make available to all residents, monthly schedules and notices of community activities, including costs. ([Wis. Admin. Code § DHS 83.38\(1\)\(d\)](#))

Family and social contacts: The CBRF shall encourage and assist residents in maintaining family and social contacts. (Wis. Admin. Code § DHS 83.38(1)(e))

Met Unmet Not Applicable

- Resident Rights Policy submitted- Section, Activity Choice (Page 2): “To meet with and participate in the activities of social, religious and community groups at the resident’s discretion”.
- Admission Agreement- the Hillview Senior Living Council meets once a month where residents can “Express their concerns, ideas, and suggestions for improving daily living” at the setting. Daily activities both in house and out in the community are posted on the bulletin boards.
- Cover letter was submitted that stated that residents go out in the community, attend religious services, schedule and attend appointments, volunteer and visit with family and friends.
- Resident testimonial confirmed that residents took trips to the casino, restaurants, and church and community fish fries.

Activities are individualized or include more than just setting-based group activities

Met Unmet Not Applicable

- Based on the review of three (3) person centered plans, there is sufficient evidence to support that Hillview Senior Living offers a comprehensive activity and resource community program both internal and external to each resident and that the planning and availability of activities and opportunities are individually supported for each resident. Additional confirmation of choice in activities and involvement were supported by each of the person centered plans.
- Highlights of one of the plans included support for the resident to attend his weekly bingo game in Mondovi and Hillview Senior Living arranged transportation to Mondovi.

The setting supports access to community activities through its own transportation or coordination of transportation options.

Met Unmet Not Applicable

Transportation Policy was submitted for review which included the following:

- “Residents or their representatives are responsible for arranging or providing transportation to the residents at Hillview. Staff at Hillview Senior Living will assist with setting up transportation to and from medical and healthcare appointments at the request of the resident or representative.”
- “Transportation may include the use of Hillview’s Senior Living Transportation Vans for an additional charge.”

Individuals, if they choose, have opportunities to seek employment and work in competitive integrated settings.

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning:

The plan must be based on an assessment that addresses the person’s “capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known” and “social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs.” ([WI Statewide Transition Plan](#); Summarized from [Wis. Admin. Code § DHS 83.35](#))

From contract between DHS and specific MCOs:

V. Care Management:

C. Assessment and Member-Centered Planning Process

C.1. Comprehensive Assessment

C.1.(c) Documentation: The comprehensive assessment will include documentation by the IDT staff of:

C.1.(c)(viii) An exploration with the member of the member’s preferences and opportunities for community integration including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community.

C.3. Member-Centered Planning

C.3.(c)(iv)(g) The setting in which the member resides supports integration into 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.

VII. Services

A. General Provisions

1. Comprehensive Service Delivery System

- c. Serve to maintain community connections, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, and that are cost effective.

Addendum I

It is the DHS's "expectation under this contract that benefits will be fully integrated and will afford options that foster opportunities for interaction and integration into 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 while supporting each member's individual outcomes and recognizing each member's preferences."

Met Unmet Not Applicable

Residents at Hillview Senior Living enjoy benefits that afford options for interaction and access to the greater Mondovi community. During the initial intake assessment, a new resident can request that their current volunteer positions in the community be supported, if the initial assessment supports the goals.

Individuals are able to control their personal resources.

Compliance within Wisconsin State Standards and Regulations

Every resident in a community-based residential facility has the right to "manage the resident's own financial affairs, unless the resident delegates, in writing, such responsibility to the facility and the facility accepts the responsibility or unless the resident delegates to someone else of the resident's choosing and that person accepts the responsibility." (Statewide Transition Plan; [Wis. Stat. § 50.09](#))

Met Unmet Not Applicable

A Resident Account Access/Personal Funds policy was submitted as part of the Admission Agreement which states: Personal fund accounts can be set up with Hillview Senior Living and the resident has the right to access his/her personal account anytime during business hours and can also request withdrawal of funds during holidays and weekends.

Choice, Independence, and Person-Centered Planning

The setting is selected by the individual from among setting options including non-disability specific settings. [42 CFR § 441.301(c)(4)(ii)]

Compliance within Wisconsin State Standards and Regulations

Wisconsin has protections in place for Medicaid waiver participants which ensure they understand their choices. DHS waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are responsible for discussing choice of service settings with the waiver participant and family/guardian to locate the most suitable provider setting, including a discussion of living in a non-disability specific setting. In practice, the waiver agencies are complying with this requirement, and documenting and monitoring the choice of settings in the member-centered plan or IRIS support and service plan, as applicable.

In Wisconsin, the choice of setting requirement is not the initial responsibility of the provider setting. Rather the choice of setting takes place through the person-centered planning process at the waiver agency level. Waiver agencies are certified by DHS and work within the requirements of contracts with DHS. Through ongoing monitoring, Wisconsin will ensure that individuals maintain the right to choose where they reside.

Additionally, Wisconsin has protections in place through *Pre-Admission Consultation (PAC)*: <https://www.dhs.wisconsin.gov/adrc/pros/pac.htm>

"Pre-admission consultation is a service provided by Aging and Disability Resource Centers (ADRCs) to individuals who are in the process of considering or making a decision about the need to move out of his or her home in order to receive the help they need to remain independent and safe. Sometimes people are unaware that there are services and supports that can be provided right in their own home, often making a move unnecessary. Those who want to move

into a nursing home or assisted living facility (such as a community based residential facility or residential care apartment complex), can find it difficult to know which facility would be the best for them or a loved one.”

Met Unmet Not Applicable

A review of person-centered plans confirm that this setting, Hillview Senior Living was selected from a choice of a variety of setting options, including non-disability specific settings. Additionally, documentation of annual review of choice of settings indicate that this setting continues to be the setting of choice for the individual,

- A review of the Hillview Senior Living Admission Care Evaluation application indicates that each resident exercises his/her choice of settings and confirms their individual application and level of care.
- Copies of signature pages of three (3) person centered support plans confirm choice in settings as well as confirmation of discussions during annual reviews that confirm that this setting continues to be the setting of choice.

The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and resources available for room and board. [42 CFR § 441.301(c)(4)(ii)]

Compliance within Wisconsin State Standards and Regulations

“COMPREHENSIVE INDIVIDUAL SERVICE PLAN Individual service plan review. Annually or when there is a change in a resident's needs, abilities or physical or mental condition, the individual service plan shall be reviewed and revised based on the assessment under sub. (1). All reviews of the individual service plan shall include input from the resident or legal representative, case manager, resident care staff, and other service providers as appropriate.” ([Wis. Admin. Code § DHS 83.35 \(1\)\(d\)](#))

Met Unmet Not Applicable

- A review of the Hillview Senior Living Admission Agreement under the Dietary Section states: A resident will be served all meals in the main dining room”. Breakfast is served when the resident wakes up and is ready for the breakfast meal and gives each resident a choice of when to rise and have a leisure breakfast.”
- Snack are available to residents on a 24/7 basis and outings to restaurants and community events are strongly encouraged.

The setting facilitates choice regarding services and supports, and who provides them. Individuals have a choice in selecting their service providers, and are not reliant on services from the institution to the exclusion of other community-based options. Individuals can choose to receive services in the community to the same degree as individuals not receiving Medicaid HCBS. [42 CFR § 441.301(c)(4)(v)].

Compliance within Wisconsin State Standards and Regulations

Before or at the time of admission, the CBRF shall provide written information regarding services available and the charges for those services to each resident or the resident’s legal representative. This information shall include any charges for services not covered by the daily or monthly rate...” (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.29](#))

Person-Centered Planning:

1. “Options of services, providers, and settings, including non-disability specific settings, are offered to participants in all Wisconsin HCBS programs.” (WI Statewide Transition Plan; Summarized from Wis. HCBS waivers, waiver-specific contracts, and policy documents.)
2. Residents have the right to “use the licensed, certified or registered provider of health care and pharmacist of the resident’s choice.” ([Wis. Stat. § 50.09](#))

Met Unmet Not Applicable

- Review of the Program Statement confirms that: “The basis of independent decisions and options is determined by the assessment and documented in the ISP which includes the resident’s self-report and current history”.
- Review of sample service plans highlights the following:
 - Residents decide on the clothes that they want to wear
 - Residents decide on activities and events they want to participate in and attend.
 - Self-Direction- Each individual resident is assessed to determine their daily routines, rituals and interests.
 - Choice of physician and other healthcare providers are documented in the resident’s ISPs and residents are free to choose and see providers of their own choice.

The setting optimizes, but does 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. [42 CFR § 441.301(c)(4)(iv)]

Compliance within Wisconsin State Standards and Regulations

Rights: Licensees must protect the civil rights of residents. Residents have the right to make decision relating to care, activities, daily routines, and other aspects of life that enhance the resident’s self-reliance and support the resident’s autonomy and decision-making. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.32](#))

Person-Centered Planning: The plan must be based on an assessment that addresses the person’s capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known, and social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts, and vocational needs. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.35](#))

“The CBRF shall teach residents the necessary skills to achieve and maintain the resident’s highest level of functioning.” The CBRF shall provide or arrange services adequate to meet the needs of the residents including providing leisure time activities, facilitating participation in community activities, and encouraging and assisting residents in maintaining family and social contacts. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.38](#))

Rights: Residents have the right to make decisions relating to care, activities, daily routines, and other aspects of life that enhance the resident’s self-reliance and support the resident’s autonomy and decision making, and have the least restrictive conditions necessary to achieve the purposes of the resident’s admission. The CBRF may not impose a curfew, rule, or other restriction on a resident’s freedom of choice. (Statewide Transition Plan; Summarized from Wis. Admin. Code § DHS 83.32)

Met Unmet Not Applicable

- Review of the Resident Handbook, Resident Rights Policy and Senior Living Policies and Program statement support the right of each resident to enjoy individual choice, autonomy and independence in making choices about their activities, décor, living arrangements and Hillview Senior Living’s philosophy and approach is to “promote and support family involvement and volunteer participation.
- A review of three (3) person centered plans supported individual choice in activities, hobbies, religious observance, etc. In addition to person centered plans, each resident has a wellness plan and an activity/recreational plan that assesses and documents interests, activities, involvement, etc. One of the residents, prior to the Covid-19 pandemic, sang in her church choir at the Lima Church.

Individuals have the freedom and support to control their own schedules and activities. [42 CFR § 441.301(c)(4)(vi)(C)]

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning: The plan must be based on an assessment that addresses the person’s “capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known” and “social participation, including interpersonal relationships, communication skills,

leisure time activities, family and community contacts and vocational needs.” (Statewide Transition Plan, pg. 72; Summarized from Wis. Admin. Code § DHS 83.35)

Rights: Licensees must protect the civil rights of residents. Residents have the right to make decision relating to care, activities, daily routines, and other aspects of life that enhance the resident’s self-reliance and support the resident’s autonomy and decision-making. (Summarized from Wis. Admin. Code § DHS 83.32)

Met Unmet Not Applicable

A review of three person-centered plans supported individual choice in activities, hobbies, religious observance, etc. In addition to person-centered plans, each resident has a wellness plan and an activity/recreational plan that assesses and documents interests, activities, involvement, etc. One of the residents, prior to the COVID-19 pandemic, sang in her church choir at the Lima Church.

The setting ensures an individual’s rights of privacy, dignity and respect, and freedom from coercion and restraint, [42 CFR § 441.301(c)(4)(iii)]

Compliance within State Standards:

Rights: Residents have the right to be “treated with courtesy, respect and dignity by all employees of the facility and other providers of health care and pharmacists with whom the resident comes in contact.” ([Statewide Transition Plan](#), pg. 72; Summarized from [Wis. Stat. § 50.09](#))

Residents must be provided with “physical and emotional privacy in treatment, living arrangements, and in caring for personal needs” including, privacy for visits by spouse or domestic partner, or to share a room with a spouse or domestic partner if both are residents for the same facility; privacy concerning health care; confidentiality of health and personal records; and the right to approve or refuse their release to any individual outside the facility. (Statewide Transition Plan, pg. 72; Summarized from Wis. Stat. § 50.09)

“Any form of coercion to discourage or prevent a resident or the resident’s legal representative from exercising any of the rights under this subchapter is prohibited. Any form of retaliation against a resident or the resident’s legal representative for exercising any of the rights in this subchapter, or against an employee or any other person who assists a resident or the resident’s legal representative in the exercise of any of the resident rights in this subchapter, is prohibited.” (Statewide Transition Plan, pg. 72; Wis. [Admin. Code § DHS 83.32](#))

In addition, each resident shall have all of the following rights: freedom from mistreatment; freedom from seclusion; freedom from chemical restraint; and freedom from physical restraints, except upon prior review and approval by DHS upon written authorization from the resident’s primary physician or advanced practice nurse prescriber. DHS may place conditions on the use of a restraint to protect the health, safety, welfare, and rights of the resident. (Statewide Transition Plan; Summarized from Wis. Admin. Code § DHS 83.32)

Met Unmet Not Applicable

- The Hillview Senior Living Resident Rights policy addresses and ensures each of the requirements of 42 CFR § 441.301(c)(4)(iii)- These requirements are confirmed through staff training and updates and clearly comply with all applicable federal, state and local laws regarding abuse/neglect, etc. As part of this policy, each resident is encouraged to sign the residents’ rights protocol that ensures the facilities compliance with applicable statutes.
- New employee orientation and employee and staff orientation checklists include sections on privacy, confidentiality, resident rights, abuse/neglect prevention, mandated reporting requirements and a Hillview Senior Assisted Living *Code of Ethics*.

Individuals are able to have visitors of their choosing at any time. [42 CFR § 441.301(c)(4)(vi)(D)]

Compliance within Wisconsin State Standards and Regulations

Rights: Residents have the right to private and unrestricted communications with their family, physician or other medical provider, attorney, and any other person, unless documented as medically contraindicated. The right to private and unrestricted communications includes the right to... reasonable access to a telephone for private communications; and the opportunity for private visits. (WI Statewide Transition Plan; Summarized from Wis. Stat. § 50.09)

Met Unmet Not Applicable

A review of the Hillview Senior Living Residents Rights confirms, “That each resident can have private visitors and adequate time and private space are available for all visitors.”

Individuals have access to food at any time.

Compliance within Wisconsin State Standards and Regulations

The CBRF must provide each resident with palatable food that meets the recommended dietary allowance based on current guidelines, including at least three meals a day and a snack in the evening, or more often based on the resident’s dietary needs. If a resident is away during meal time, the CBRF shall offer food to the resident on the resident’s return. The CBRF shall make reasonable adjustments to the menu for individual resident likes, habits, customs, condition, and appetites. (Summarized from Wis. Admin. Code § DHS 83.41)

Met Unmet Not Applicable

Resident Handbook states that “Hillview Senior Assisted Living is a community that is the resident’s home and should be thought of and managed as a home. Dining and auxiliary food choices are available at Hillview Senior Living and includes a dining room with guest meals, and a snack bar with juices, bakery items, water, etc. Residents can also have meals set aside for them to access at different times from the scheduled dining room hours. Residents can have guests at any meal and can also host dinners and parties for their friends and families.

Individuals occupy the setting under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity. [42 CFR § 441.301(c)(4)(vi)(A)]

Compliance within Wisconsin State Standards and Regulations:

“Each resident shall have a written agreement that is signed by and provided to each party. The agreement includes a description of the space to be provided to the resident, the agreed upon rate, a statement of the resident’s rights and the terms of termination, including timeframes. The agreement is updated annually.” ([WI Statewide Transition Plan](#), pg. 77; [Wis. Admin. Code § DHS 83.29](#))

The agreement must include terms for resident notification to the CBRF of voluntary discharge, and reasons and notice requirements for involuntary discharge or transfer, including transfers within the CBRF. (WI Statewide Transition Plan, pg. 77; Summarized from Wis. Admin. Code § DHS 83.31)
State licensed settings are subject to unannounced licensing visits, both in response to complaints and during regular oversight visits. Through ongoing HCBS monitoring, Wisconsin will ensure that individuals maintain the right to make such choices while residing in this state-licensed community-based residential facility. Additionally, the state’s long-term care ombudsman program has regular access to the setting.

Met Unmet Not Applicable

- Review of the Hillview Senior Living Admission Statement confirms the following:
- “The resident has the right to voluntarily terminate this agreement upon thirty (30) days written notice of their intentions”.
- Provider submitted documents support compliance of landlord tenant laws that Hillview Senior Living Assisted Living is responsible to be familiar with and comply with all requirements of applicable landlord tenant statutes for their local community. Hillview Senior Assisted Living, through its Admission Agreement in its Resident Handbook that the setting will comply with all applicable laws including the Fair Housing Act.

Overcoming Institutional Presumption

The setting demonstrated a meaningful physical distinction between the HCBS setting and the institutional setting, including separate entrances and signage, physical divisions, and differences in décor.

Met Unmet Not Applicable

- Photos were submitted for the resident's rooms. Each resident lives in a large and spacious room and are free to decorate as they desire. Residents bring their own furnishings and each room is equipped with individual locks. Residents may furnish their rooms with a microwave and refrigerator.
- Photos of signage between the CBRF and the SNF demonstrate a meaningful physical distinction between the HCBS setting and the institution. There is a separate entrance for Hillview Senior Living and signage which is distinct from the SNF.

Each individual has privacy in their sleeping or living unit.

Compliance within Wisconsin State Standards and Regulations:

Residents must be provided with "physical and emotional privacy in treatment, living arrangements, and in caring for personal needs" including, privacy for visits by spouse or domestic partner, or to share a room with a spouse or domestic partner if both are residents for the same facility; privacy concerning health care; confidentiality of health and personal records; and the right to approve or refuse their release to any individual outside the facility. (Statewide Transition Plan; Summarized from Wis. Stat. § 50.09)

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance surveyors that the setting (DQA, [E-02138](#), HCBS Compliance Review):

1. Provides lockable key entry doors on all resident rooms, and individual keys to all residents.
2. Has a policy ensuring that staff uses facility keys to enter a resident's room only under circumstances agreed upon with the resident.

Met Unmet Not Applicable

- HCBS lock and privacy policy was submitted for documents review and the HCBS privacy and lock policies are part of the HCBS staff training.
- Review of staff training curriculum confirms that staff are trained in respecting the privacy of the residents. Staff must knock before entering and gain permission from the resident.

Individual living units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.

Compliance within Wisconsin State Standards and Regulations

Locks on living unit doors allow the resident to exercise his or her right to privacy and personal choice. Staff in each residential setting should always knock and receive permission prior to entering a resident's living space. DHS expects the residential setting to have a policy in place to ensure that staff always knock and receive permission prior to entering a resident's room or personal living space to respect residents' rights to privacy. Please refer to DHS' [Frequently Asked Questions \(FAQs\) about Door Locks in Adult Long-Term Care Residential Settings](#) for additional lock-related information.

Met Unmet Not Applicable

Each person at Hillview Senior Living Assisted Living has privacy in his/her sleeping unit including a lockable door. Tenant privacy and lock policies were submitted for document review and photos were submitted on individual rooms confirming locks on the doors. Review of the Resident Unit Key Policy confirms that: "Staff will only use a key/code to enter a resident's living area or private space under circumstances agreed upon with the resident/guardian."

Individuals sharing units have a choice of roommates in that setting.

Compliance within Wisconsin State Standards and Regulations:

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance surveyors that residents have choice of roommates (DQA, [F-02138](#), HCBS Compliance Review):

Person-Centered Planning: Family Care Provider Network, I. Access to Providers: "For residential care facilities, evidence of adequate capacity shall include identification of the availability of residential providers offering private rooms, and a process for moving an individual to a private room when one becomes available that is consistent with the member's preferences." ([DHS-MCO Contract, Article VIII, I\(6\)d](#))

Met Unmet Not Applicable

All of the living units at Hillview Senior Living are private.

Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement. [42 CFR § 441.301(c)(4)(vi)(B)(1-3)]

Compliance within Wisconsin State Standards and Regulations

Every resident in a community-based residential facility shall have the right to retain and use personal clothing and effects and to retain, as space permits, other personal possessions in a reasonably secure manner. (Summarized from Wis. Stat. § 50.09)

Met Unmet Not Applicable

Review of the Resident Handbook and Admission Agreement confirm that each resident can furnish their living units as they so choose. Submitted photos confirmed that each living unit was distinct and furnished by each resident.

The setting is physically accessible to the individual. [42 CFR § 441.301(c)(4)(vi)(E)]

Compliance within Wisconsin State Standards and Regulations

The bedroom and congregate dining and living area for any resident requiring a specified level of care and who is blind or not fully ambulatory shall be on the first floor. (Summarized from Wis. Admin. Code § DHS 83.50)

Bedrooms shall be designed and equipped to allow residents to achieve the highest level of independent functioning and shall be fully accessible to the resident. Within the bedroom, each resident shall have, or be provided with a closet or wardrobe with clothes hanging rods and shelves, and drawer space adequate to reasonably meet the needs of the resident. The bedroom shall have adequate accessible space for a resident's wheelchair or other adaptive or prosthetic equipment. (Summarized from Wis. Admin. Code § DHS 83.54)

Met Unmet Not Applicable

The setting is physically accessible to the individual resident-42 CFR § 441.301(c)(4)(vi)(E)]

The living unit is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services:
The individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the applicable landlord/tenant laws. The State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law. [42 CFR § 441.301(c)(4)(vi)(A)].

Compliance within Wisconsin State Standards and Regulations:

"Each resident shall have a written agreement that is signed by and provided to each party. The agreement includes a description of the space to be provided to the resident, the agreed upon rate, a statement of the resident's rights and the terms of termination, including timeframes. The agreement is updated annually." ([Wis. Admin. Code § DHS 83.29](#))

The agreement must include terms for resident notification to the CBRF of voluntary discharge, and reasons and notice requirements for involuntary discharge or transfer, including transfers within the CBRF. (Summarized from [Wis. Admin. Code § DHS 83.31](#))

Met Unmet Not Applicable

- Documents submitted for review include, Admission Agreement, Resident Handbook which clearly outlines that Hillview Senior Living is responsible to be familiar with and comply with all requirements of applicable landlord tenant statutes for their community. As part of the Occupancy Agreement, it is stated that the setting will provide “proper written notice to the resident whenever there is a decision regarding the resident’s occupancy agreement, i.e., termination, etc.
- Service Agreement/Admission Agreement describes rate, care levels, termination notice and procedures, tenant policies and procedures.

Operational Distinction

The setting demonstrated meaningful operational distinction between the institution and the community-based setting, such as minimal administrative and financial interconnectedness.

Met Unmet Not Applicable

- A separate budget expense/revenue allocation was submitted as part of the American Lutheran Homes, Inc. The budget confirms separate financial accounting and minimal interconnectedness between the CBRF and the institution.
- Review of organizational charts and staffing schedules and confirmed that there is minimal interconnectedness at the management and administrative levels for the settings.

There is a distinction between staff for the HCBS setting and the institutional setting. Staff working in the HCBS setting receive initial and ongoing training on HCBS settings rule requirements and principles, and person-centered planning.

Met Unmet Not Applicable

- Staffing Plan submitted confirms that there is a separate full-time Director, one full-time Nursing Manager and direct care staff assigned only to Hillview Senior Living.
- Staff receive HCBS settings training during orientation and updates during CBRF training modules.

DHS Recommendation

DHS finds that [Hillview Senior Living - Mondovi](#) possesses the required home and community-based characteristics, is not isolating in nature, and overcomes the presumption of having institutional qualities.

Please note that these findings are preliminary only and must receive final approval from CMS.

In accordance with federal requirements, all compliance results will be made public by DHS. The decision will appear on the subsequent upload of facility information to DHS websites, including the [DQA Provider Search webpage](#) and the provider directories available at the [Consumer Guide to Health Care – Finding and Choosing an Assisted Living Facility webpage](#).

Ongoing Compliance

Wisconsin’s Division of Quality Assurance (DQA) will ensure through ongoing compliance reviews that [Hillview Senior Living - Mondovi](#) continues to meet the requirements of the HCBS Settings Rule. The DMS Bureau of Assisted Living (BAL) has incorporated the HCBS settings rule into its current assisted living survey process and activities. ([DQA Implementation of Home and Community-Based Services Settings Rule in Residential Assisted Living Facilities](#))

Waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are certified by the Wisconsin Department of Health Services (DHS) and work within the requirements of contracts with DHS. State licensed settings are subject to unannounced licensing visits, both in response to complaints and during regular oversight visits, by the state licensing authority, or by the entity that certified the provider if not regulated by the state. As part of these periodic licensing or certification reviews, the credentialing entity will also review the setting for continued HCBS compliance. Providers will be required to address any HCBS rule deficiencies.

When HCBS participants are resident in the setting, waiver program care managers are required to have ongoing contact, including face-to-face visits, at which time any areas of concern would be identified and addressed. Each participant in a Medicaid home and community-based waiver program is further protected through the state's long-term care ombudsman program, which has regular access to the assisted living setting. [Wisconsin's Board on Aging & Long Term Care](#): The Board on Aging and Long Term Care advocates for the interests of Wisconsin's long-term care consumers, informs those consumers of their rights and educates the public about health care systems and long-term care. The Board also operates the [Long Term Care Ombudsman](#), and [Volunteer Ombudsman](#) services.

EVIDENTIARY ASSESSMENT AND SUMMARY
Home and Community-Based Services (HCBS) Settings Rule
Heightened Scrutiny Review – Residential Care Apartment Complex (RCAC)

Facility Name Hillview Terrace		Facility Type Residential Care Apartment Complex (RCAC)	
Corporate Name (if applicable) Lacrosse County		License/Certification # 0013997	County Lacrosse
Facility Address 3503 Park Lane Drive	City La Crosse	State WI	Zip Code 54601
Primary Contact Name Caitlyn Kozik	Primary Contact Direct Phone (include area code) 608-785-5500	Primary Contact Email Address ckozik@lacrossecounty.org	
Facility Website Address https://lacrossecounty.org/hillview/assistedliving/			

Reason for Institutional Presumption

- Settings in a publicly or privately operated facility that provides inpatient institutional treatment.
- Settings on the grounds of, or adjacent to, a public institution. Name of institution: [LaCrosse County Hillview Healthcare Center](#)
- Settings with the effect of isolating individuals from the broader community of individuals not receiving HCBS waiver services.

The Centers for Medicare and Medicaid Services' (CMS) HCBS settings rule assumes that certain settings are not home and community-based. If a Wisconsin assisted living facility (setting) meets one of the criteria for institutional presumption as defined above, the DHS Division of Medicaid Services (DMS) conducts a heightened scrutiny review.

DMS believes that Hillview Terrace has overcome the institutional presumption and meets the criteria of a home and community-based services setting as summarized below.

To reinforce the extent to which Wisconsin's licensing and certification regulations and standards align with and reinforce the HCBS settings rule, the applicable state standard or regulation is included, where applicable, with the compliance review summary below.

Facility Summary

Hillview Terrace is part of the greater LaCrosse County senior campus located in La Crosse, Wisconsin. Part of the services and amenities it offers to Wisconsin older adults consist of 30 senior living and assisted living units. Hillview Terrace Assisted Living is licensed in Wisconsin as a Residential Care Apartment Complex (RCAC) and the environment that feels like home and operates like a family. Nestled beneath the scenic bluffs in La Crosse, WI, this modern health care facility boasts a resident capacity of 137 with sprawling grounds and natural scenery. Stunning views surround the peaceful senior community, and walking paths on the campus offer residents the chance to stroll through nature and spot local deer, ducks, geese, and other wildlife. Operated by La Crosse County,

Hillview Health Care Center offers residents state-of-the-art medical services and nutritional services at affordable prices. Their staff of qualified medical professionals knows that caregiving is a balancing act of providing superior medical care and emotional support at the same time. They are passionate about their work and about their clients, and they go out of their way to respect each resident's preferences and individuality. Hillview Health Care Center features three diverse living areas Hillview Health Care Center, Hillview Assisted Living, and Carroll Heights Apartments Each dwelling option provides a different level of independence and medical care, which means that residents can easily transition between facilities if their needs change over time.

The setting is integrated in and supports full access to the greater community [42 CFR § 441.301(c)(4)(i)].

The community considers the setting a part of their community and does not associate the setting with institutional services.

Met Unmet Not Applicable

Hillview Terrace has been part of the Lacrosse neighborhood and county facility for 10+ years and developed in concert with community members to address the independent needs of senior citizens. Hillview Terrace consists of thirty-one and two bedroom apartments and tenants are an integral part of the community. Tenants may have their own vehicle and can be part of the entire Lacrosse area and beyond if, they choose. The location provides people the opportunity to continue day- to -day community activities and services, and seeing family and friends, as they did before they moved.

Two interviews/testimonials conducted- Interview with Tenant about Community Involvement:

Interviewer: Could you give some examples of community activities that you participated in?

Interviewee: I did a lot of work for the Chad Erickson Memorial Park right here by our facility. It was easy for me to do because I could just walk over there. I helped with easy landscaping when they were building the park. Back home I was a county disaster relief volunteer for metropolis Illinois where I helped with cleanup for many windstorms. I also did many crafts and one on one visits with residents at our nursing home next door when I was able to do that.

Interviewer: Why did you choose to be involved in the community?

Interviewee: I like giving back to others because there were many people that helped me out when I needed it. I was in a tough place when I came back from overseas and needed a lot of assistance. Now it is my turn to help others.

Interviewer: Do you plan to stay involved in your community?

Interviewee: Yes, when it is safe for me to help, I will. I am planning to be in the community long-term, so I plan on doing more activities with my family. I also plan to go back to helping our nursing home next door when I can.

Individuals, to the extent they desire, have opportunities to participate in typical community life activities outside of the setting.

Compliance within Wisconsin State Standards and Regulations

From [contract between SMA and specific MCOs](#):

ADDENDUM VI.

Personal Experience Outcomes in Long-Term Care:

Assisting people to achieve their desired individual quality-of-life outcomes is one of the primary goals of managed long-term care. The following personal experience outcome domains are the areas of life that people in long-term care programs have identified as being important to their quality of life. They provide a framework for learning about and understanding the individual's needs, values, preferences, and priorities in the assessment and care planning process and in monitoring the quality of our long-term care programs. It is expected that each of these domains will be assessed during the member-centered planning process.

Choice – choosing:

1. Where and with whom to live
2. Supports and services
3. Daily routines

Personal Experience – having:

4. Interaction with family and friends
5. Work or other meaningful activities
6. Community involvement
7. Stability
8. Respect and fairness
9. Privacy

Each participant in a Medicaid home and community-based waiver program must have a person-centered plan that, when indicated, includes any conditions that are to be applied to the conditions defined in the HCBS settings rule. (Wisconsin HCBS waivers, waiver-specific contracts, and policy documents)

Met Unmet Not Applicable

- Hillview Terrace tenants can come and go as they please and participate in any community activities they choose. The activity department schedules restaurant outings and weekly grocery shopping trips and tenants can enjoy community activities with families and friends. A review of submitted person-centered plans highlight community activities that tenants choose- going to plays, singing in church and community choirs, going to the Lacrosse Performing Arts Center, etc.
- Hillview Terrace policy manual states “Hillview Terrace maintains a monthly schedule of social, recreational and fitness activities. Activities and events may take place either inside of the Home, or at off-premise locations. Tenants are not required to participate; however, group interaction can be fun and rewarding for everyone. Activities may include lunch out, picnics, going to a movie, community events, crafts and arts, games, etc. Tenants are always encouraged to suggest activities that interest them.”
- Integral to independent living and the planning of activities, transportation and community engagement is accessing the ADRC Center of Lacrosse County. A review of a sample of Hillview tenant’s person-centered plans confirms that ADRC is a vital resource for tenants at Hillview Terrace.

Activities are individualized or include more than just setting-based group activities.

Met Unmet Not Applicable

- Tenant Rights policy confirm that “tenants have the right to make reasonable decisions relating to activities, daily routines, use of personal space, how to spend one’s time”
 - Policy and procedure statements, under Activities and Events, state, “Hillview Terrace maintains a monthly schedule of social, recreational and fitness activities.” Activity calendars describe both individual opportunities as well as group opportunities.
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- A review of person-centered plans confirm that part of the plan includes resident’s interests, hobbies and choice of activities. One of the residents continues to sing in her church choir. Residents can maintain a high level of independence. Residents can operate their own vehicles and are free to come and go as they please.

The setting supports access to community activities through its own transportation or coordination of transportation options.

Met Unmet Not Applicable

- Assisted Living Services document confirms that Hillview Terrace “Will assist with scheduling transportation to personal appointments.”
- Transportation options are available through ADRC and local transportation resources. Local transportation resources include Coulee Region volunteer driver program, Onalaska public transit and the Lacrosse Municipal transit system. Hillview Terrace’s facility vehicle is available to provide transportation on designated days of the week free-of-charge.

Individuals, if they choose, have opportunities to seek employment and work in competitive integrated settings.

Compliance within Wisconsin State Standards and Regulations

From contract between DHS and specific MCOs:

V. Care Management:

C. Assessment and Member-Centered Planning Process

C.1. Comprehensive Assessment

C.1.(c) Documentation: The comprehensive assessment will include documentation by the IDT staff of:

C.1.(c)(viii) An exploration with the member of the member’s preferences and opportunities for community integration including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community.

C.3. Member-Centered Planning

C.3.(c)(iv)(g) The setting in which the member resides supports integration into 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.

VII. Services

A. General Provisions

1. Comprehensive Service Delivery System

c. Serve to maintain community connections, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, and that are cost effective.

Addendum I

It is the DHS’s “expectation under this contract that benefits will be fully integrated and will afford options that foster opportunities for interaction and integration into 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 while supporting each member’s individual outcomes and recognizing each member’s preferences.”

Met Unmet Not Applicable

- Hillview Terrace’s program statement confirms, “Our facility respects and promotes the right of each resident to exercise his or her autonomy regarding what the resident considers to be important facets of his or her life.” This includes daily routine, personal care needs, and providers of healthcare services, activities, hobbies and interests, religious affiliation and worship preferences and community involvement, including work or volunteer opportunities.

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- Training documents for RCAC and assisted living staff outline RCAC Resident Rights
 - Respectful Treatment
 - Independence and Autonomy
 - Communication and Access to Information
 - Adequate Care
 - Freedom from Hazards and Abuse
 - Resident interview conducted confirms that the resident has the right to exercise his independence through volunteering in the community.

Individuals are able to control their personal resources.

Compliance within Wisconsin State Standards and Regulations

Each tenant has the right to manage his or her own financial affairs, unless the tenant delegates responsibility to another person or the tenant has a guardian. (Summarized from [Wis. Admin. Code § DHS 89.34](#))

From [contract between SMA and specific MCO](#):

V. Care Management:

C. Assessment and Member-Centered Planning Process

C.1. Comprehensive Assessment

C.1.(c) The comprehensive assessment will include documentation by the interdisciplinary (IDT) staff of all of the following:

(ix) An exploration with the member of the member's preferences and opportunities for community integration including opportunities to control personal resources.

C.3. Member-Centered Plan (MCP)

C.3.(c)(iv) The MCP shall document at least the following:

(g) The setting in which the member resides supports integration into the greater community, including opportunities to control personal resources.

Met Unmet Not Applicable

Hillview Terrace tenants have keys to their own apartments and can lock their personal resources in their apartments. The facility can provide lock drawers or a safe if requested. Tenants have access to the community and can continue banking at the financial institution of choice.

Choice, Independence, and Person-Centered Planning

The setting is selected by the individual from among setting options including non-disability specific settings. [42 CFR § 441.301(c)(4)(ii)].

Compliance within Wisconsin State Standards and Regulations

Wisconsin has protections in place for Medicaid waiver participants which ensure they understand their choices. DHS waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are responsible for discussing choice of service settings with the waiver participant and family/guardian to locate the most suitable provider setting, including a discussion of living in a non-disability specific setting. In practice, the waiver agencies are complying with this requirement, and documenting and monitoring the choice of settings in the member-centered plan or IRIS support and service plan, as applicable.

In Wisconsin, the choice of setting requirement is not the initial responsibility of the provider setting. Rather the choice of setting takes place through the person-centered planning process at the waiver agency level. Waiver agencies are certified by DHS and work within the requirements of contracts with DHS. Through ongoing monitoring, Wisconsin will ensure that individuals maintain the right to choose where they reside.

Additionally, Wisconsin has protections in place through *Pre-Admission Consultation (PAC)*: <https://www.dhs.wisconsin.gov/adrc/pros/pac.htm>

“Pre-admission consultation is a service provided by Aging and Disability Resource Centers (ADRCs) to individuals who are in the process of considering or making a decision about the need to move out of his or her home in order to receive the help they need to remain independent and safe. Sometimes people are unaware that there are services and supports that can be provided right in their own home, often making a move unnecessary. Those who want to move into a nursing home or assisted living facility (such as a community based residential facility or residential care apartment complex), can find it difficult to know which facility would be the best for them or a loved one.”

From [contract between SMA and specific MCOs](#):

V. Care Management:

A. Member Participation:

A.2. Members shall receive clear explanations of:

- d. The full range of residential options, including in-home care, residential care and nursing home care when applicable.
- e. The benefits, drawbacks and likelihood of success of each option.

C.1. Comprehensive Assessment

C.1. (ix) – An exploration with the member of the member’s preferred living situation and a risk assessment for the stability of housing and finances to sustain housing as indicated.

C.3. Member-Centered Plan (MCP)

C.3.(c)(iv) The MCP shall document at least the following:

(f) – The home and community-based residential setting option chosen by the member and other options presented to the member unless the member declines to consider other options.

ADDENDUM VI.

Personal Experience Outcomes in Long-Term Care:

Assisting people to achieve their desired individual quality-of-life outcomes is one of the primary goals of managed long-term care. The following personal experience outcome domains are the areas of life that people in long-term care programs have identified as being important to their quality of life. They provide a framework for learning about and understanding the individual’s needs, values, preferences, and priorities in the assessment and care planning process and in monitoring the quality of our long-term care programs. It is expected that each of these domains will be assessed during the member-centered planning process.

Choice – choosing:

- l. Where and with whom to live
- . Supports and services

[50.034, Stats](#)

WI State Statute 50.034 Residential care apartment complexes.

5n) Required referral. Subject to sub. [\(5p\)](#), when a residential care apartment complex first provides written material regarding the residential care apartment complex to a prospective resident who is at least 65 years of age or has developmental disability or a physical disability and whose disability or condition is expected to last at least 90 days, the residential care apartment complex shall refer the prospective resident to a resource center under s. [46.283](#), unless any of the following applies:

[50.034\(5n\)\(c\)](#) The person is an enrollee of a care management organization.

Person-Centered Planning: Options of services, providers, and settings, including non-disability specific settings, are offered to participants in all Wisconsin HCBS programs. ([Statewide Transition Plan](#), pg. 85; Wisconsin HCBS waivers, waiver-specific contracts, and policy documents)

Met Unmet Not Applicable

- The administrator/nurse manager meets with the individual prior to admission to discuss and complete the service agreement and the negotiated risk agreement. If an individual is supported with waiver funding, a member-centered plan is developed with the full participation of the member. The managed care plan always includes discussion about where the individual would like to live and identifies outcomes and goals the member wishes to attain. Included are discussion about setting or choices, employment and education, and social and family/friends interaction. Currently there are eight residents on Family Care.
- Submitted person-centered plans confirmed that each tenant acknowledges and affirms that they have choice in their residential settings, options for services and have “a right to choose which services are included in the service agreement.”

The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and resources available for room and board. [42 CFR § 441.301(c)(4)(ii)].

Compliance within Wisconsin State Standards and Regulations

Wisconsin Admin. Code ch. DHS 89 is intended “to establish standards and procedures for the certification or registration of residential care apartment complexes in order to promote the health and safety of persons residing in and receiving services from those facilities. This chapter is intended to ensure that all residential care apartment complexes provide each tenant with an independent apartment in a setting that is home-like and residential in character; make available personal, supportive and nursing services that are appropriate to the needs, abilities and preferences of individual tenants; and operate in a manner that protects tenants’ rights, respects tenant privacy, enhances tenant self-reliance and supports tenant autonomy in decision-making including the right to accept risk.” ([Wis. Admin. Code § DHS 89.11](#))

The tenant has the right to choose services and the right to refuse services. The tenant has the right to receive visitors, meet with groups, or participate in activities of the tenant’s choice, to receive and send sealed mail, and to have a private phone installed in his or her independent apartment. (Summarized from [Wis. Admin. Code § DHS 89.34](#))

Each tenant has the right to: manage his or her own financial affairs, unless the tenant delegates responsibility to another person or the tenant has a guardian; have choice of his or her physician and other medical providers; and a choice of providers of supportive, personal, and nursing services from providers other than the residential care apartment complex, subject to the requirements of [Wis. Admin. Code § DHS 89.24\(2\)\(b\)](#).

From [contract between SMA and specific MCOs](#):

V. Care Management:

C. Assessment and Member-Centered Planning Process:

Member-centered planning reflects understanding between the member and the IDT staff and will demonstrate changes that occur with the member’s outcomes and health status. The member is always central to the member centered planning and comprehensive assessment process. The IDT staff will ensure that the member is at the center of the member centered planning process. The member will actively participate in the planning process, in particular, in the identification of personal outcomes and preferences.

Met Unmet Not Applicable

- Tenant’s Rights Policy affirms that each Hillview Terrace tenant “have the right to receive services consistent with the service agreement, risk agreement and person-centered plan

- When an individual is on waiver funding, a member- centered plan is developed with the full participation of the member. The MCP always includes discussion about where the individual would like to live and identifies outcomes and goals the member wishes to obtain.
- Assisted Living workers training curriculum highlight choice for RCAC tenants and include:
 - “Every employee within the assisted living setting has a duty to provide adequate, appropriate and accurate information to the residents about the choices each resident has in his/her daily life.”
 - The role of resident autonomy- “Maximizing independence and autonomy-to the degree possible- remains central to the quality of life of older persons with disabling chronic conditions, event those in long-term care facilities.”

The setting facilitates choice regarding services and supports, and who provides them. Individuals have a choice in selecting their service providers, and are not reliant on services from the institution to the exclusion of other community-based options. Individuals can choose to receive services in the community to the same degree as individuals not receiving Medicaid HCBS. [42 CFR § 441.301(c)(4)(v)]

Compliance within Wisconsin State Standards and Regulations

From Contract Between SMA and Each MCO:

- VIII. Provider Network,
- A. Member Choice
1. Information to Members: The MCO shall inform members about the full range of provider choice available to them, including free choice of medical and other providers that remain fee-for-service for Family Care members, as applicable.

From [IRIS Policy Manual](#)

- 1.1C Philosophy
- Self-direction means people have more choice, control, flexibility, freedom, and responsibility. Within the context of IRIS, self-direction means participants decide upon the following:
1. The goods, supports, and services needed to help live the life he or she wants while meeting his or her long-term care outcomes.
 2. The amount and location that goods, supports, and services are provided, as well as decisions on the provider of these services.

Person-Centered Planning:

1. Options of services, providers, and settings, including non-disability specific settings, are offered to participants in all Wisconsin HCBS programs. (Statewide Transition Plan, pg. 87; Summarized from Wis. HCBS waivers, waiver-specific contracts, and policy documents.)
2. Residents have the right to “receive adequate and appropriate care within the capacity of the facility” and to “use the licensed, certified or registered provider of health care and pharmacist of the resident’s choice.” ([Wis. Stat. § 50.09](#))

Rights:

1. The tenant has the right to choose services and the right to refuse services. (WI Statewide Transition Plan, pg. 84; Summarized from Wis. Admin. Code § DHS 89.34)
2. Each tenant has the right to: have choice of his or her physician and other medical providers; and a choice of providers of supportive, personal, and nursing services from providers other than the residential care apartment complex, subject to the requirements of [Wis. Admin. Code § DHS 89.24\(2\)\(b\)](#). (WI Statewide Transition Plan, pg. 85; Summarized from Wis. Admin. Code § [DHS 89.34](#))

Met Unmet Not Applicable

- Tenant’s Rights Policy affirms that each Hillview Terrace tenant “have the right to receive services consistent with the service agreement, risk agreement and person-centered plan.”

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- Tenant Rights Policy affirms that tenants “Have a right to their choice of healthcare providers. Tenants have a right to non-interference and the tenant shall not be required to use medical, mental health or pharmaceutical providers employed by or affiliated with the facility.”

The setting optimizes, but does 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. [42 CFR § 441.301(c)(4)(iv)]

Compliance within Wisconsin State Standards and Regulations

Wisconsin Admin. Code ch. DHS 89 is intended “to establish standards and procedures for the certification or registration of residential care apartment complexes in order to promote the health and safety of persons residing in and receiving services from those facilities. This chapter is intended to ensure that all residential care apartment complexes provide each tenant with an independent apartment in a setting that is home-like and residential in character; make available personal, supportive and nursing services that are appropriate to the needs, abilities and preferences of individual tenants; and operate in a manner that protects tenants' rights, respects tenant privacy, enhances tenant self-reliance and supports tenant autonomy in decision-making including the right to accept risk.” ([Wis. Admin. Code § DHS 89.11](#))

Each tenant will have a service agreement based on an assessment conducted with the active participation of the tenant. The service agreement includes the type, amount, and frequency of any services to be provided to the tenant, any additional services that are available, and the activities and social connections the tenant will be assisted in maintaining. (Summarized from [Wis. Admin. Code §§ DHS 89.26 and 89.27](#))

The tenant has the right to choose services and the right to refuse services. The tenant has the right to receive visitors, meet with groups or participate in activities of the tenant’s choice, to receive and send sealed mail, and to have a private phone installed in his or her independent apartment. (Summarized from [Wis. Admin. Code § DHS 89.34](#))

Met Unmet Not Applicable

- Tenant Rights Policy states that the tenant “have the right to choose which services are included in their service agreement and the right to make reasonable decisions relating to activities, daily routines, use of personal space and visitors.”
- Tenants have the “right to receive visitors, meet with groups or participate in activities of the tenant’s choice, including organizing and participating in tenant and family councils.”
- Tenants “have a right to receive and send sealed, unopened mail.”
- Tenants “have a right to a private telephone properly installed in his or her independent apartment.”

Individuals have the freedom and support to control their own schedules and activities. [42 CFR § 441.301(c)(4)(vi)(C)]

Compliance within Wisconsin State Standards and Regulations

Wisconsin Admin. Code ch. DHS 89 is intended “to establish standards and procedures for the certification or registration of residential care apartment complexes in order to promote the health and safety of persons residing in and receiving services from those facilities. This chapter is intended to ensure that all residential care apartment complexes provide each tenant with an independent apartment in a setting that is home-like and residential in character; make available personal, supportive and nursing services that are appropriate to the needs, abilities and preferences of individual tenants; and operate in a manner that protects tenants' rights, respects tenant privacy, enhances tenant self-reliance and supports tenant autonomy in decision-making including the right to accept risk.” ([Wis. Admin. Code § DHS 89.11](#))

Met Unmet Not Applicable

Hillview Terrace Assisted Living description features the following:

- One’s own private and lockable apartment
 - Many areas to socialize- Solarium, parlor, living room, dining room, the loft, salon, office and library
-

-
- Regular reviews of each tenant’s person-centered plans to meet residents’ changing needs
 - Whirlpool spa and full gym
 - Trained staff to assist with activities of daily living, 24/7 including bathing, clothing, dressing assistance, grooming and hygiene.
 - Treat tenant rights policy confirm that each tenant with courtesy, respect and full recognition of the tenant’s dignity.

The setting ensures an individual’s rights of privacy, dignity and respect, and freedom from coercion and restraint, [42 CFR § 441.301(c)(4)(iii)].

Compliance within State Standards

Hillview Terrace is a residential care apartment complex (RCAC). RCACs are independent apartments that offer additional services, if needed. The services provided to tenants are based on the tenant’s selection from a menu of services and supports, both in the setting and in the community. A tenant may choose to do most activities independently or have more comprehensive assistance.

State-regulated settings are subject to unannounced licensing visits, both in response to complaints and during regular oversight visits. In addition, when HCBS participants are resident in the setting, waiver program care managers are required to have ongoing contact, including face-to-face visits, at which time any member rights issues would be identified and addressed.

Rights: A tenant has the right “to have privacy in his or her independent apartment and when receiving supportive, personal or nursing services.” The tenant has the right “to be free from physical, sexual or emotional abuse, neglect or financial exploitation or misappropriation of property by the facility, its staff or any service provider under contract with the facility” and has the right to be free from coercion. (Statewide Transition Plan, pgs. 85-86; Summarized from Wis. Admin. Code §§ DHS [89.34](#) and [89.36](#))

DHS prohibits the use of restraint or seclusion of waiver participants unless the specific restraint or seclusion intervention has been reviewed and approved by DHS. Use of restraint and/or isolation is monitored by waiver agencies and DHS. Guidelines on restraints and isolation are found at: www.dhs.wisconsin.gov/waivermanual/appndx-r1.pdf and www.dhs.wisconsin.gov/dqa/memos/15-003.pdf (WI Statewide Transition Plan)

Met Unmet Not Applicable

Hillview Terrace respect and tenant rights policies asserts that “all tenants, families and staff have a right, without exception, to be recognized for their contribution to the overall success of the Hillview Terrace mission:

- “Tenants have a right to be free from physical, sexual or emotional abuse, neglect or financial exploitation”
- “Tenants have a right to a safe environment in which to live”

Individuals are able to have visitors of their choosing at any time. [42 CFR § 441.301(c)(4)(vi)(D)]

Compliance within Wisconsin State Standards and Regulations

“Each independent apartment shall be of adequate size and configuration to permit tenants to carry out, with or without assistance, all the functions necessary for independent living, including... entertaining visitors.” (WI Statewide Transition Plan; [Wis. Admin. Code § DHS 89.22](#))

The tenant has the right to receive visitors, meet with groups, or participate in activities of the tenant’s choice, to receive and send sealed mail, and to have a private phone installed in his or her independent apartment. (WI Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 89.34](#))

Met Unmet Not Applicable

Hillview Tenant Rights asserts that tenants “Have a right to receive visitors, meet with groups or participate in activities of the tenant’s choice, including organizing and participating in tenant and family councils or groups provided that the health or safety of the other tenants is not endangered.”

Individuals have access to food at any time.

Compliance within Wisconsin State Standards and Regulations

A “Residential care apartment complex’ consists of independent apartments, each of which has an individual lockable entrance and exit, a kitchen, including a stove, and individual bathroom, sleeping and living areas” ([Wis. Admin. Code § DHS 89.13](#))

Each independent apartment shall have a kitchen that is “a visually and functionally distinct area within the apartment. The refrigerator shall have a freezer compartment. The sink shall have hot and cold running water.” (Wis. Admin. Code § DHS 89.22)

Met Unmet Not Applicable

- Hillview Terrace provides tenants with meal packages, which can be purchased monthly, which includes a continental breakfast, lunch and dinner.
- Tenants can choose from a studio, 1 or two bedroom apartments, which have a microwave and refrigerator and a separate kitchen and dining area.

The living unit is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services. The individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under applicable landlord/tenant laws. The State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord/tenant laws. [42 CFR § 441.301(c)(4)(vi)(A)].

Compliance within Wisconsin State Standards and Regulations

A residential care apartment complex shall enter into a mutually agreed-upon written service agreement with each of its tenants. The agreement shall include the services and the charges for any services in the service agreement and any additional services that are available for purchase. The agreement must also include the grounds for any termination of the agreement. (WI Statewide Transition Plan, pg. 88; Summarized from Wis. Admin. Code § [DHS 89.27](#))

Met Unmet Not Applicable

- The residency and service agreement for each Hillview Terrace tenant includes accommodations and amenities, transfer and discharge policy, a recital of basic and optional services, term and termination information.
- Tenants must give a thirty-day notice or more for termination of the agreement unless health or an extenuating circumstance occurs.
- All appropriate laws of the State of Wisconsin govern tenant’s service agreement.

Overcoming Institutional Presumption

The setting demonstrated a meaningful physical distinction between the HCBS setting and the institutional setting, including separate entrances and signage, physical divisions, and differences in décor.

Met Unmet Not Applicable

- As seen on submitted photos and maps, Hillview Terrace has a separate signage, parking lot and walkway to their setting.
- Photos of individual apartments show that each are furnished in the manner that the tenant chooses. Tenant have the “right to furnish his or her independent apartment and to maintain personal possessions as space permits.”
- Blueprint of the campus shows that there is a separate walkway to the main campus. In addition to Hillview Terrace, RCAC the campus has an additional RCAC and a CBRF all with separate entrances.
- Outdoor gardens and open areas are available to the tenants at Hillview Terrace and are distinctive from the SNF.

Each individual has privacy in their sleeping or living unit.

Compliance within Wisconsin State Standards and Regulations

A “residential care apartment ‘complex’ or ‘facility’... consists of independent apartments, each of which has an individual lockable entrance and exit, a kitchen, including a stove, and individual bathroom, sleeping and living areas...” ([Wis. Admin. Code § DHS 89.13](#))

A tenant has the right “to have privacy in his or her independent apartment and when receiving supportive, personal or nursing services.” The tenant has the right “to be free from physical, sexual or emotional abuse, neglect or financial exploitation or misappropriation of property by the facility, its staff or any service provider under contract with the facility” and has the right to be free from coercion. (Summarized from Wis. Admin. Code §§ DHS 89.34 and 89.36)

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance (DQA) surveyors that the setting (DQA, [F-02138](#), HCBS Compliance Review):

1. Provides lockable key entry doors on all resident rooms, and individual keys to all residents.
2. Has a policy ensuring that staff uses facility keys to enter a resident’s room only under circumstances agreed upon with the resident.

Met Unmet Not Applicable

- Hillview Terrace amenities include “Your very own lockable apartment.”
- Photos of apartments show lockable doors
- Tenant privacy policy ensures that staff must knock before entering an apartment.

Individual living units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.

Compliance within Wisconsin State Standards and Regulations

Each independent apartment shall have “an individual lockable entrance and exit. A single door may serve as both entrance and exit. Keys to the door to the independent apartment and to the residential care apartment complex shall be supplied to the tenant.” ([Wis. Admin. Code § DHS 89.22](#))

“‘Individual lockable entrance and exit’ means a door that provides access to an independent apartment and is equipped with an individually keyed lock which is operable from both inside and outside the unit and which the tenant can open, close and lock to ensure privacy.” ([Wis. Admin. Code § DHS 89.13](#))

Locks on living unit doors allow the resident to exercise his or her right to privacy and personal choice. Staff in each residential setting should always knock and receive permission prior to entering a resident’s living space. DHS expects the residential setting to have a policy in place to ensure that staff always knock and receive permission prior to entering a resident’s room or personal living space to respect residents’ rights to privacy. Please refer to DHS’ [Frequently Asked Questions \(FAQs\) about Door Locks in Adult Long-Term Care Residential Settings](#) for additional lock-related information.

Met Unmet Not Applicable

Hillview Terrace apartments have individual locks, and residents have their own key to their unit.

Individuals sharing units have a choice of roommates in that setting.

Compliance within Wisconsin State Standards and Regulations

“Multiple occupancy of an independent apartment shall be limited to a spouse or a roommate chosen at the initiative of the tenant.” ([Wis. Admin. Code § DHS 89.22](#))

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance surveyors that residents have choice of roommates (DQA, [F-02138](#), HCBS Compliance Review).

Person-Centered Planning: Family Care Provider Network, I. Access to Providers: “For residential care facilities, evidence of adequate capacity shall include identification of the availability of residential providers offering private rooms, and a process for moving an individual to a private room when one becomes available that is consistent with the member’s preferences.” ([DHS-MCO Contract, Article VIII, I\(6\)d](#))

Met Unmet Not Applicable

Tenants can choose from studios to two bedroom apartments and tenants choose, if they desire, a spouse, roommate in their living units.

Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement. [42 CFR § 441.301(c)(4)(vi)(B)(1-3)]

Compliance within State Standards

A tenant has the right “to furnish his or her independent apartment and to maintain personal possessions as space permits as long as the tenant does not unreasonably interfere with the other tenants’ choices or endanger the health or safety of the other tenants.” (WI Statewide Transition Plan; [Wis. Admin. Code § DHS 89.34](#))

Met Unmet Not Applicable

Tenant policy and tenant service agreement confirm that the tenant “has the right to furnish their apartments and to maintain their own personal possessions.”

The setting is physically accessible to the individual. [42 CFR § 441.301(c)(4)(vi)(E)]

Compliance within State Standards

“Each independent apartment shall be of adequate size and configuration to permit tenants to carry out, with or without assistance, all the functions necessary for independent living, including sleeping; sitting; dressing; personal hygiene; storing, preparing, serving and eating food; storing clothing and other personal possessions; doing personal correspondence and paperwork; and entertaining visitors.” ([Wis. Admin. Code § DHS 89.22](#))

Met Unmet Not Applicable

- Hillview Terrace offers choices of apartments from studios to two bedroom all with separate kitchen areas, closets, etc. Studio apartment is approximately 431 square feet and the two-bedroom apartment is 870 square feet.
- Each apartment is physically accessible, wheelchair accessible and the bath and bedroom areas have adaptive bars for the tenants.

Operational Distinction

The setting demonstrated meaningful operational distinction between the institution and the community–based setting, such as minimal administrative and financial interconnectedness.

Met Unmet Not Applicable

- Lacrosse County shows separate budgeting, financial and costs allocations for Hillview Terrace.
- Hillview Terrace has its own administrative director as part of Lacrosse county’s assisted living settings and the director is responsible for the HCBS settings. This position is responsible for the resident care aides, housekeeping aides, and activities aides. Financial reports demonstrate operational distinction between all county campus settings.

There is a distinction between staff for the HCBS setting and the institutional setting. Staff working in the HCBS setting receive initial and ongoing training on HCBS settings rule requirements and principles, and person-centered planning.

Met Unmet Not Applicable

A comprehensive staff training program and syllabus was submitted that demonstrate Hillview Terrace’s commitment to training staff in HCBS. RCAC admission requirements, safety and security, privacy, person-centered planning, residents rights, resident choice are integral topics for staff training.

DHS Recommendation

DHS finds that [Hillview Terrace](#) possesses the required home and community–based characteristics, is not isolating in nature, and overcomes the presumption of having institutional qualities.

Please note that these findings are preliminary only and must receive final approval from CMS.

Ongoing Compliance

Wisconsin’s Division of Quality Assurance (DQA) will ensure through ongoing compliance reviews that [Hillview Terrace](#) continues to meet the requirements of the HCBS Settings Rule. The DMS Bureau of Assisted Living (BAL) has incorporated the HCBS settings rule into its current assisted living survey process and activities. ([DQA Implementation of Home and Community-Based Services Settings Rule in Residential Assisted Living Facilities](#))

Waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are certified by the Wisconsin Department of Health Services (DHS) and work within the requirements of contracts with DHS. State licensed settings are subject to unannounced licensing visits, both in response to complaints and during regular oversight visits, by the state licensing authority, or by the entity that certified the provider if not regulated by the state. As part of these periodic licensing or certification reviews, the credentialing entity will also review the setting for continued HCBS compliance. Providers will be required to address any HCBS rule deficiencies.

When HCBS participants are resident in the setting, waiver program care managers are required to have ongoing contact, including face-to-face visits, at which time any areas of concern would be identified and addressed. Each participant in a Medicaid home and community-based waiver program is further protected through the state’s long-term care ombudsman program, which has regular access to the assisted living setting. [Wisconsin’s Board on Aging & Long Term Care](#): The Board on Aging and Long Term Care advocates for the interests of Wisconsin’s long-term care consumers, informs those consumers of their rights and educates the public about health care systems and long-term care. The Board also operates the [Long Term Care Ombudsman](#), and [Volunteer Ombudsman](#) services.

EVIDENTIARY ASSESSMENT AND SUMMARY
Home and Community-Based Services (HCBS) Settings Rule
Heightened Scrutiny Review – Community-Based Residential Facility (CBRF)

Facility Name Homme Residential Wittenberg		Facility Type Community-Based Residential Facility (CBRF)	
Corporate Name (if applicable) Homme Home for the Aging Inc		License/Certification # 410107	County Shawano
Facility Address 604 S Webb St	City Wittenberg	State WI	Zip Code 54499
Primary Contact Name Tara Hoppe-Schmidt, RN	Primary Contact Direct Phone (include area code) 715-253-2125	Primary Contact Email Address tarah@homme.org	
Facility Website Address https://homme.org/			

Reason for Institutional Presumption

- Settings in a publicly or privately operated facility that provides inpatient institutional treatment. [Homme Home for the Aging](#)
- Settings on the grounds of, or adjacent to, a public institution. Name of institution:
- Settings with the effect of isolating individuals from the broader community of individuals not receiving HCBS waiver services.

The Centers for Medicare and Medicaid Services' (CMS) HCBS settings rule assumes that certain settings are not home and community-based. If a Wisconsin assisted living facility (setting) meets one of the criteria for institutional presumption as defined above, the DHS Division of Medicaid Services (DMS) conducts a heightened scrutiny review.

DMS believes that Homme Residential Wittenberg has overcome the institutional presumption and meets the criteria of a home and community-based services setting as summarized below.

To reinforce the extent to which Wisconsin's licensing and certification regulations and standards align with and reinforce the HCBS settings rule, the applicable state standard or regulation is included, where applicable, with the compliance review summary below.

Facility Summary

Wittenberg, located in central Wisconsin, is 32 miles east of Wausau and 65 miles west of Green Bay, two larger Wisconsin cities with a variety of medical providers, shopping, higher education, and cultural opportunities. Though rural, with a population of 1,300 and growing, Wittenberg has a variety of businesses that make up the local economy: a grocery store, two hardware stores, automobile repair shops, auto parts stores, gas stations, real estate agencies, two franchise fast food restaurants, a prominent hotel with indoor pool and banquet facilities, floral shop, baker and deli, pharmacy, insurance agencies, accounting services, attorney services, beauty salons, tanning facilities, newspaper printer, lumber store and many restaurants. There are two banking facilities, two medical clinics,

an eye clinic, two dental clinics and a funeral home. Additionally, Wittenberg has a thriving manufacturing industry and is home to internationally known Nueske's Applewood Smoked Meats. The Walls of Wittenberg (WOW) was founded in 2005 and is dedicated to honoring the history of Wittenberg, revitalizing the downtown, and attracting visitors. Since 2005, 18 murals have been painted which creates a 24/7 art gallery and an art park has been added. This has become a source of pride for the local residents and a tourist attraction that draws visitors from around the Midwest. The Reverend E.J. Homme founded Wittenberg in 1879, and he established a home for the aged and an orphanage in 1882 under the sponsorship of the Lutheran Church of America. The Homme Home for the Aged and Homme Youth and Family Programs are still growing and thriving today in Wittenberg.

Today, Homme Home for the Aged, operating two campuses in Wittenberg and Wausau, is still supported by many area churches, offering a wide variety of residential housing and health care services for seniors of all faiths as well as in-patient and out-patient rehabilitation services for adults of all ages. Homme Residential Wittenberg CBRF opened in August 1980 and is part of the Wittenberg area community for more than 40 years.

The setting is integrated in and supports full access to the greater community [42 CFR § 441.301(c)(4)(i)].

The community considers the setting a part of their community and does not associate the setting with institutional services.

Met Unmet Not Applicable

Homme Home for the Aged has been part of the community of Wittenberg for more than 130 years. The community has continued to support residents and staff alike for all those years, always including residents in community activities and providing opportunities for community members to lead activities on the campus. Community activities for people living at Homme Residential Wittenberg include both on and off campus events. The community wide health fair and blood drive and community book fair occur annually on campus. And the Homme Residential Wittenberg operates a brat fry at a fundraiser for Walls of Wittenberg "WOW space." Residents attend their church of choice, go out for restaurant meals, choose community businesses for services, and come and go from the facility as they choose. They may go out with friends and family or on their own if they wish. Often residents have worked at Homme in the past and are pleased to now be living there.

Individuals, to the extent they desire, have opportunities to participate in typical community life activities outside of the setting.

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning: The plan must be based on an assessment that addresses the person's "capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known" and "social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs." (Summarized from [Wis. Admin. Code § DHS 83.35](#))

Program Services: Community activities. The CBRF shall provide information and assistance to facilitate participation in personal and community activities. The CBRF shall develop, update and make available to all residents, monthly schedules and notices of community activities, including costs. ([Wis. Admin. Code § DHS 83.38\(1\)\(d\)](#))

Family and social contacts: The CBRF shall encourage and assist residents in maintaining family and social contacts. ([Wis. Admin. Code § DHS 83.38\(1\)\(e\)](#))

Met Unmet Not Applicable

Homme Residential Wittenberg is located within the community of Wittenberg and residents can come and go as they please, participating in community activities in and around the area. The member centered plan reviews social and family relationships, and a members interest in activities, education and volunteer opportunities. Homme Residential Wittenberg participates in a variety of ways with the Wittenberg-Birnamwood school district including volunteer

opportunities working with the students and enjoying schools activities and events. Opportunities also are available at the Alpha House Resale shop and the Wittenberg area food pantry.

Activities are individualized or include more than just setting-based group activities.

Met Unmet Not Applicable

Homme Residential Wittenberg residents can come and go and they wish, participating in activities at the facility or in the community as they choose. Residents may continue enjoying activities and they did before moving to Homme Residential Wittenberg. A bulletin board lists Wittenberg events, local newspapers are available with current events in neighboring communities, and an info sheet with community events throughout the county is distributed to residents. One care conference report states “family will take resident to catholic church services in her home town... resident will go with family on weekends and holidays. Resident will pack her suitcase. Family still own resident’s house and will have family get-togethers there. Likes to ride –wheeler with sons. Shares recipes with grandchildren.”

The setting supports access to community activities through its own transportation or coordination of transportation options.

Met Unmet Not Applicable

Homme Residential Wittenberg residents are encouraged to use existing providers of medical and other services in the communities where they lived before. Staff help coordinate and arrange for medical transportation if needed. Family and friends provide transportation for appointments and entertainment and residents may have their own vehicle if they wish. The newsletter *The Residential* has a notice: “Public transport? We have a list of public transport options hanging up for all to see by the CBRF office. If you need assistance with making transport appointments the CBRF staff will gladly help you with this.”

Individuals, if they choose, have opportunities to seek employment and work in competitive integrated settings.

Met Unmet Not Applicable

Homme Residential Wittenberg residents who are supported with waiver funding are involved in the development and ongoing review of their individual member centered plans. Several sections of the member-centered plan focus on outcomes chosen by the member, including where they want to live, employment and educations preferences if any, and if they choose to access and participate in the community. The facility’s ISP process, also including the resident as an integral member of the team, includes sections on family contacts, likes and dislikes, social and leisure needs/preferences.

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning:

The plan must be based on an assessment that addresses the person’s “capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known” and “social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs.” ([WI Statewide Transition Plan](#); Summarized from [Wis. Admin. Code § DHS 83.35](#)).

From contract between DHS and specific MCOs:

V. Care Management:

C. Assessment and Member-Centered Planning Process

C.1. Comprehensive Assessment

C.1.(c) Documentation: The comprehensive assessment will include documentation by the IDT staff of:

C.1.(c)(viii) An exploration with the member of the member’s preferences and opportunities for community integration including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community.

C.3. Member-Centered Planning

C.3.(c)(iv)(g) The setting in which the member resides supports integration into 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.

VII. Services

A. General Provisions

1. Comprehensive Service Delivery System

c. Serve to maintain community connections, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, and that are cost effective.

Addendum I

It is the DHS’s “expectation under this contract that benefits will be fully integrated and will afford options that foster opportunities for interaction and integration into 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 while supporting each member’s individual outcomes and recognizing each member’s preferences.”

Met Unmet Not Applicable

Homme Residential Wittenberg residents who are supported with waiver funding are involved in the development and ongoing review of their individual member centered plans. The facility’s ISP process, also including the resident as an integral member of the team, includes sections on family contacts, likes and dislikes, social and leisure needs/preferences. Both processes support individual choice and preferences. Regularly scheduled reviews are planned, and the resident may request a new review at any time.

Individuals are able to control their personal resources.

Compliance within Wisconsin State Standards and Regulations

Every resident in a community-based residential facility has the right to “manage the resident’s own financial affairs, unless the resident delegates, in writing, such responsibility to the facility and the facility accepts the responsibility or unless the resident delegates to someone else of the resident’s choosing and that person accepts the responsibility.” (Statewide Transition Plan; [Wis. Stat. § 50.09](#)).

Met Unmet Not Applicable

Residents at Homme Residential Wittenberg may secure their monies and other valuable as they chose in their own room. A small lockbox for the resident’s room may be requested and is strongly encouraged. All rooms have a lock and keys are provided to the resident. Residents may choose to have an account with the facility business office, authorizing the facility to hold their funds if they wish. Funds may be requested during business office hours, or after hours from the charge nurse. The Homme Residential resident personal fund policy delineates these procedures. In addition, since residents can come and go as they wish, some residents may choose to use their preferred financial institutions in the community.

The setting is selected by the individual from among setting options including non-disability specific settings. [42 CFR § 441.301(c)(4)(ii)].

Compliance within Wisconsin State Standards and Regulations

Wisconsin has protections in place for Medicaid waiver participants which ensure they understand their choices. DHS waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are responsible for discussing choice of service settings with the waiver participant and family/guardian to locate the most suitable provider setting, including a discussion of living in a non-disability specific setting. In practice, the waiver agencies are complying with this requirement, and documenting and monitoring the choice of settings in the member-centered plan or IRIS support and service plan, as applicable.

In Wisconsin, the choice of setting requirement is not the initial responsibility of the provider setting. Rather the choice of setting takes place through the person-centered planning process at the waiver agency level. Waiver agencies are certified by DHS and work within the requirements of contracts with DHS. Through ongoing monitoring, Wisconsin will ensure that individuals maintain the right to choose where they reside.

Additionally, Wisconsin has protections in place through *Pre-Admission Consultation (PAC)*: <https://www.dhs.wisconsin.gov/adrc/pros/pac.htm>.

“Pre-admission consultation is a service provided by Aging and Disability Resource Centers (ADRCs) to individuals who are in the process of considering or making a decision about the need to move out of his or her home in order to receive the help they need to remain independent and safe. Sometimes people are unaware that there are services and supports that can be provided right in their own home, often making a move unnecessary. Those who want to move into a nursing home or assisted living facility (such as a community based residential facility or residential care apartment complex), can find it difficult to know which facility would be the best for them or a loved one.”

Met Unmet Not Applicable

Homme Residential Wittenberg residents who are eligible for waiver funding meet with the Aging and Disability Resource Center to discuss options based on the individual’s needs and preferences. The family care or long term care provider is chosen, and the member is a participant in the development and ongoing review of their individual member centered plans. If there is a need for assisted living outside of the member’s home, the chosen facility’s ISP process, also including the resident as an integral member of the team, includes sections on family contacts, likes and dislikes, social and leisure needs/preferences, and choice of cares and how those cares are provided. Both processes support individual choice and preferences. Regularly scheduled reviews are planned, and the resident may request a new review at any time.

The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and resources available for room and board. [42 CFR § 441.301(c)(4)(ii)].

Compliance within Wisconsin State Standards and Regulations

“COMPREHENSIVE INDIVIDUAL SERVICE PLAN Individual service plan review. Annually or when there is a change in a resident's needs, abilities or physical or mental condition, the individual service plan shall be reviewed and revised based on the assessment under sub. (1). All reviews of the individual service plan shall include input from the resident or legal representative, case manager, resident care staff, and other service providers as appropriate.” ([Wis. Admin. Code § DHS 83.35 \(1\)\(d\)](#))

Met Unmet Not Applicable

Homme Residential Wittenberg residents who are supported with waiver funding are involved in the development and ongoing review of their individual member centered plans. The facility’s ISP process, also including the resident as an integral member of the team, includes sections on family contacts, likes and dislikes, social and leisure needs/preferences. Both processes support individual choice and preferences. Regularly scheduled reviews are planned, and the resident may request a new review at any time.

The setting facilitates choice regarding services and supports, and who provides them. Individuals have a choice in selecting their service providers, and are not reliant on services from the institution to the exclusion of other community-based options. Individuals can choose to receive services in the community to the same degree as individuals not receiving Medicaid HCBS. [42 CFR § 441.301(c)(4)(v)]

Compliance within Wisconsin State Standards and Regulations

Before or at the time of admission, the CBRF shall provide written information regarding services available and the charges for those services to each resident or the resident’s legal representative. This information shall include any charges for services not covered by the daily or monthly rate (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.29](#)).

Person-Centered Planning

- “Options of services, providers, and settings, including non-disability specific settings, are offered to participants in all Wisconsin HCBS programs.” (WI Statewide Transition Plan; Summarized from Wis. HCBS waivers, waiver-specific contracts, and policy documents.)
- Residents have the right to “use the licensed, certified or registered provider of health care and pharmacist of the resident’s choice.” ([Wis. Stat. § 50.09](#))

Met Unmet Not Applicable

Residents at Homme Residential Wittenberg are encouraged to continue using their medical and services providers of choice. Outside providers may also be used to provide onsite services to residents. Outside providers must be approved by the facility and must comply with facility policies and procedures. Staff assist with scheduling transportation for medical needs as necessary. Family and friends also help with transportation, or individuals may drive themselves if they have a vehicle and license to drive.

The setting optimizes, but does 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. [42 CFR § 441.301(c)(4)(iv)]

Compliance within Wisconsin State Standards and Regulations

Rights: Licensees must protect the civil rights of residents. Residents have the right to make decision relating to care, activities, daily routines, and other aspects of life that enhance the resident’s self-reliance and support the resident’s autonomy and decision-making. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.32](#)).

Person-Centered Planning: The plan must be based on an assessment that addresses the person’s capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known, and social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts, and vocational needs. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.35](#)).

“The CBRF shall teach residents the necessary skills to achieve and maintain the resident’s highest level of functioning.” The CBRF shall provide or arrange services adequate to meet the needs of the residents including providing leisure time activities, facilitating participation in community activities, and encouraging and assisting residents in maintaining family and social contacts. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.38](#)).

Rights: Residents have the right to make decisions relating to care, activities, daily routines, and other aspects of life that enhance the resident’s self-reliance and support the resident’s autonomy and decision making, and have the least restrictive conditions necessary to achieve the purposes of the resident’s admission. The CBRF may not impose a curfew, rule, or other restriction on a resident’s freedom of choice. (Statewide Transition Plan; Summarized from Wis. Admin. Code § DHS 83.32).

Met Unmet Not Applicable

The Homme Residential Wittenberg resident rights document assures that individuals make their own decision and remain as independent as possible. They can choose what to wear, how to decorate their living area, and what they would like to do each day, “make decisions relating to care, activities, daily routines, and other aspects of life which enhance the resident’s self-reliance and support the resident’s autonomy and decision making.” During the member centered planning process and the ISP process residents are encouraged to identify preferences in daily activities.

Individuals have the freedom and support to control their own schedules and activities. [42 CFR § 441.301(c)(4)(vi)(C)]

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning: The plan must be based on an assessment that addresses the person’s “capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known” and “social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs.” (Statewide Transition Plan, pg. 72; Summarized from Wis. Admin. Code § DHS

83.35) Rights: Licensees must protect the civil rights of residents. Residents have the right to make decision relating to care, activities, daily routines, and other aspects of life that enhance the resident's self-reliance and support the resident's autonomy and decision-making. (Summarized from Wis. Admin. Code § DHS 83.32)

Met Unmet Not Applicable

The Homme Residential Wittenberg resident rights document provides that residents “make decisions relating to care, activities, daily routines, and other aspects of life which enhance the resident’s self-reliance and support the resident’s autonomy and decision making.” During the member centered planning process and the ISP process residents are encouraged to identify preferences in daily activities.

The setting ensures an individual’s rights of privacy, dignity and respect, and freedom from coercion and restraint, [42 CFR § 441.301(c)(4)(iii)].

Compliance within Wisconsin State Standards and Regulations

Rights: Residents have the right to be “treated with courtesy, respect and dignity by all employees of the facility and other providers of health care and pharmacists with whom the resident comes in contact.” ([Statewide Transition Plan](#), pg. 72; Summarized from [Wis. Stat. § 50.09](#)).

Residents must be provided with “physical and emotional privacy in treatment, living arrangements, and in caring for personal needs” including, privacy for visits by spouse or domestic partner, or to share a room with a spouse or domestic partner if both are residents for the same facility; privacy concerning health care; confidentiality of health and personal records; and the right to approve or refuse their release to any individual outside the facility. (Statewide Transition Plan, pg. 72; Summarized from Wis. Stat. § 50.09).

“Any form of coercion to discourage or prevent a resident or the resident's legal representative from exercising any of the rights under this subchapter is prohibited. Any form of retaliation against a resident or the resident's legal representative for exercising any of the rights in this subchapter, or against an employee or any other person who assists a resident or the resident's legal representative in the exercise of any of the resident rights in this subchapter, is prohibited.” (Statewide Transition Plan, pg. 72; Wis. [Admin. Code § DHS 83.32](#)).

In addition, each resident shall have all of the following rights: freedom from mistreatment; freedom from seclusion; freedom from chemical restraint; and freedom from physical restraints, except upon prior review and approval by DHS upon written authorization from the resident's primary physician or advanced practice nurse prescriber. DHS may place conditions on the use of a restraint to protect the health, safety, welfare, and rights of the resident. (Statewide Transition Plan; Summarized from Wis. Admin. Code § DHS 83.32).

Met Unmet Not Applicable

Homme Residential Wittenberg resident rights document ensures an individual’s right of privacy, dignity and respect, and freedom from coercion and restraint. The facility is operated to “ensure recognition of basic human rights ...plus Christian care concerns as upheld by its board of directors and staff.” Resident living areas are private rooms with a private bath. All units have a lock on the door and residents have a key. The key policy requires that staff know and receive an answer before entering a living unit, unless they is reason to believe there is an emergency.

Individuals are able to have visitors of their choosing at any time. [42 CFR § 441.301(c)(4)(vi)(D)]

Compliance within Wisconsin State Standards and Regulations

Rights: Residents have the right to private and unrestricted communications with their family, physician or other medical provider, attorney, and any other person, unless documented as medically contraindicated. The right to private and unrestricted communications includes the right to reasonable access to a telephone for private communications; and the opportunity for private visits. (WI Statewide Transition Plan; Summarized from Wis. Stat. § 50.09).

Met Unmet Not Applicable

Residents at Homme Home Residential Wittenberg may have visitors of their choice at any time. During the hours of 9 pm – 7 am the main doors are locked but visitors may use the doorbell for staff to let them in. With advance notice residents may have overnight guests; for more than three consecutive nights, prior approval is required.

Individuals have access to food at any time.

Compliance within Wisconsin State Standards and Regulations

The CBRF must provide each resident with palatable food that meets the recommended dietary allowance based on current guidelines, including at least three meals a day and a snack in the evening, or more often based on the resident's dietary needs. If a resident is away during meal time, the CBRF shall offer food to the resident on the resident's return. The CBRF shall make reasonable adjustments to the menu for individual resident likes, habits, customs, condition, and appetites. (Summarized from Wis. Admin. Code § DHS 83.41).

Met Unmet Not Applicable

Homme Residential Wittenberg residents are served three meals each day “family style” and snacks 24/7 as they wish. For residents who wish to eat at other than the scheduled times, an “any time menu” is always available for their choosing. In addition, a snack shack offers sandwiches, chips, fruit, cookies, crackers and other items. Friends and family can join residents for meals. Residents may also have food in their room if properly contained to prevent pests and food poisoning.

The living unit is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services:

- The individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the applicable landlord/tenant laws.
- The State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law. [42 CFR § 441.301(c)(4)(vi)(A)]

Compliance within Wisconsin State Standards and Regulations

“Each resident shall have a written agreement that is signed by and provided to each party. The agreement includes a description of the space to be provided to the resident, the agreed upon rate, a statement of the resident's rights and the terms of termination, including timeframes. The agreement is updated annually.” ([WI Statewide Transition Plan](#), pg. 77; [Wis. Admin. Code § DHS 83.29](#)).

The agreement must include terms for resident notification to the CBRF of voluntary discharge, and reasons and notice requirements for involuntary discharge or transfer, including transfers within the CBRF. (Summarized from [Wis. Admin. Code § DHS 83.31](#)).

Met Unmet Not Applicable

The Homme Residential Wittenberg admission agreement specifies that the resident may terminate the agreement by providing a 30 day notice. The facility also may terminate the agreement by providing a written 30 day notice. For certain specified reasons, termination could occur with less than a 30 day notice.

Overcoming Institutional Presumption

The setting demonstrated a meaningful physical distinction between the HCBS setting and the institutional setting, including separate entrances and signage, physical divisions, and differences in décor.

Met Unmet Not Applicable

Homme Residential Wittenberg has a separate entrance and separate signage. Residents use their own furniture and can decorate as they desire. Residents do not have access to the SNF within the buildings, and SNF residents do not have access to Homme Residential Wittenberg. A remodeled section will use a separate elevator and will not have access from the SNF.

Each individual has privacy in their sleeping or living unit.

Compliance within Wisconsin State Standards and Regulations

Residents must be provided with “physical and emotional privacy in treatment, living arrangements, and in caring for personal needs” including, privacy for visits by spouse or domestic partner, or to share a room with a spouse or domestic partner if both are residents for the same facility; privacy concerning health care; confidentiality of health and personal records; and the right to approve or refuse their release to any individual outside the facility. (Statewide Transition Plan; Summarized from Wis. Stat. § 50.09).

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance surveyors that the setting (DQA, [F-02138](#), HCBS Compliance Review):

- Provides lockable key entry doors on all resident rooms, and individual keys to all residents.
- Has a policy ensuring that staff uses facility keys to enter a resident’s room only under circumstances agreed upon with the resident.

Met Unmet Not Applicable

All living units at Homme Residential Wittenberg are single units. Residents who wish to be roommates may chose adjoining rooms. Each unit has a private bathroom.

Individual living units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.

Compliance within Wisconsin State Standards and Regulations

Locks on living unit doors allow the resident to exercise his or her right to privacy and personal choice. Staff in each residential setting should always knock and receive permission prior to entering a resident’s living space. DHS expects the residential setting to have a policy in place to ensure that staff always knock and receive permission prior to entering a resident’s room or personal living space to respect residents’ rights to privacy. Please refer to DHS’ [Frequently Asked Questions \(FAQs\) about Door Locks in Adult Long-Term Care Residential Settings](#) for additional lock-related information.

Met Unmet Not Applicable

Each living unit at Homme Residential Wittenberg has its own lock and keys. The facility key policy states that staff are trained on the key policy and they are required to knock and receive permission to enter prior to accessing a resident’s room. Staff may use a key to enter a resident’s room if there is reasonable belief that the resident’s safety or the safety of others is compromised.

Individuals sharing units have a choice of roommates in that setting.

Compliance within Wisconsin State Standards and Regulations

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance surveyors that residents have choice of roommates (DQA, [F-02138](#), HCBS Compliance Review)

Person-Centered Planning: Family Care Provider Network, I. Access to Providers: “For residential care facilities, evidence of adequate capacity shall include identification of the availability of residential providers offering private rooms, and a process for moving an individual to a private room when one becomes available that is consistent with the member’s preferences.” ([DHS-MCO Contract, Article VIII, I\(6\)d](#))

Met Unmet Not Applicable

The Homme Residential Wittenberg admission agreement states that the living areas are single units and that adjoining rooms are available for those who wish to share a room providing the roommate meets the requirements of living within the CBRF.

Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement. [42 CFR § 441.301(c)(4)(vi)(B)(1-3)]

Compliance within Wisconsin State Standards and Regulations

Every resident in a community-based residential facility shall have the right to retain and use personal clothing and effects and to retain, as space permits, other personal possessions in a reasonably secure manner. (Summarized from Wis. Stat. § 50.09)

Met Unmet Not Applicable

Homme Residential Wittenberg admission agreement states that the facility will provide a hospital bed, nightstand and chair if the resident wishes to use them. Residents can furnish the unit with their own furniture as space permits. Residents are also encouraged to decorating their living unit as they wish.

The setting is physically accessible to the individual. [42 CFR § 441.301(c)(4)(vi)(E)]

Compliance within Wisconsin State Standards and Regulations

The bedroom and congregate dining and living area for any resident requiring a specified level of care and who is blind or not fully ambulatory shall be on the first floor. (Summarized from Wis. Admin. Code § DHS 83.50)

Bedrooms shall be designed and equipped to allow residents to achieve the highest level of independent functioning and shall be fully accessible to the resident. Within the bedroom, each resident shall have, or be provided with a closet or wardrobe with clothes hanging rods and shelves, and drawer space adequate to reasonably meet the needs of the resident. The bedroom shall have adequate accessible space for a resident's wheelchair or other adaptive or prosthetic equipment. (Summarized from Wis. Admin. Code § DHS 83.54)

Met Unmet Not Applicable

Homme Residential Wittenberg is physically accessible.

Operational Distinction

The setting demonstrated meaningful operational distinction between the institution and the community-based setting, such as minimal administrative and financial interconnectedness.

Met Unmet Not Applicable

The daily operations of the Homme Residential Wittenberg CBRF are separate from the operation of other campus divisions and have a separate organizational chart. Support services departments such as human resources, accounting, housekeeping and laundry and dietary services are allocated across multiple licensee areas based on an agreed-upon allocation method as determined by generally accepted accounting principles.

There is a distinction between staff for the HCBS setting and the institutional setting. Staff working in the HCBS setting receive initial and ongoing training on HCBS settings rule requirements and principles, and person-centered planning.

Met Unmet Not Applicable

Homme Residential Wittenberg staff are CBRF Personal Care Attendants who have received additional training to comply with CBRF regulations in addition to their certified nursing assistant, CNA, registry.

DHS Recommendation

Wisconsin can attest that [Homme Residential Wittenberg](#) possesses the required home and community-based characteristics, is not isolating in nature, and overcomes the presumption of having institutional qualities.

Please note that these findings are preliminary only and must receive final approval from CMS.

In accordance with federal requirements, all compliance results will be made public by DHS. The decision will appear on the subsequent upload of facility information to DHS websites, including the [DQA Provider Search webpage](#) and the provider directories available at the [Consumer Guide to Health Care – Finding and Choosing an Assisted Living Facility webpage](#).

Ongoing Compliance

Wisconsin's Division of Quality Assurance (DQA) will ensure through ongoing compliance reviews that [Homme Residential Wittenberg](#) continues to meet the requirements of the HCBS Settings Rule. The DMS Bureau of Assisted Living (BAL) has incorporated the HCBS settings rule into its current assisted living survey process and activities. ([DQA Implementation of Home and Community-Based Services Settings Rule in Residential Assisted Living Facilities](#))

Waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are certified by the Wisconsin Department of Health Services (DHS) and work within the requirements of contracts with DHS. State licensed settings are subject to unannounced licensing visits, both in response to complaints and during regular oversight visits, by the state licensing authority, or by the entity that certified the provider if not regulated by the state. As part of these periodic licensing or certification reviews, the credentialing entity will also review the setting for continued HCBS compliance. Providers will be required to address any HCBS rule deficiencies.

When HCBS participants are resident in the setting, waiver program care managers are required to have ongoing contact, including face-to-face visits, at which time any areas of concern would be identified and addressed. Each participant in a Medicaid home and community-based waiver program is further protected through the state's long-term care ombudsman program, which has regular access to the assisted living setting. [Wisconsin's Board on Aging & Long Term Care](#): The Board on Aging and Long Term Care advocates for the interests of Wisconsin's long-term care consumers, informs those consumers of their rights and educates the public about health care systems and long-term care. The Board also operates the [Long Term Care Ombudsman](#), and [Volunteer Ombudsman](#) services.

EVIDENTIARY ASSESSMENT AND SUMMARY
Home and Community-Based Services (HCBS) Settings Rule
Heightened Scrutiny Review – Community-Based Residential Facility (CBRF)

Facility Name Lakeview Care Partners at Waterford		Facility Type Community-Based Residential Facility (CBRF)	
Corporate Name (if applicable) Lakeview Care Partners		License/Certification # 0016391	County Racine
Facility Address 1701 Sharp Road	City Waterford	State WI	Zip Code 53185
Primary Contact Name Julie Natrop	Primary Contact Direct Phone (include area code) 262-534-8549	Primary Contact Email Address jnatrop@lakeviewssystem.com	
Facility Website Address https://lakeviewssystem.com			

Reason for Institutional Presumption

- Settings in a publicly or privately operated facility that provides inpatient institutional treatment. [Lakeview Specialty Hospital and Rehab](#)
- Settings on the grounds of, or adjacent to, a public institution. Name of institution:
- Settings with the effect of isolating individuals from the broader community of individuals not receiving HCBS waiver services.

The Centers for Medicare and Medicaid Services' (CMS) HCBS settings rule assumes that certain settings are not home and community-based. If a Wisconsin assisted living facility (setting) meets one of the criteria for institutional presumption as defined above, the DHS Division of Medicaid Services (DMS) conducts a heightened scrutiny review.

DMS believes that [Lakeview Care Partners at Waterford CBRF](#) has overcome the institutional presumption and meets the criteria of a home and community-based services setting as summarized below.

To reinforce the extent to which Wisconsin's licensing and certification regulations and standards align with and reinforce the HCBS settings rule, the applicable state standard or regulation is included, where applicable, with the compliance review summary below.

Facility Summary

Lakeview Specialty Hospital and Rehab's CBRF program, Lakeview Care Partners at Waterford, is designed to provide a continuum of care, clinical treatment, and behavior management services to adults with Traumatic Brain Injury, alcohol/drug issues, developmental disabilities, and/or physical disabilities. These client groups have proven to be compatible in this setting as they may share common strengths and deficits in the areas of cognition, physical functioning, medical needs, and psychosocial needs. Lakeview Specialty Hospital and Rehab is a Joint Commission Accredited and licensed long-term acute care hospital (LTACH) that has delivered 25 years of innovative programs and extensive services with expertise in medically complex care, neurobehavioral health, rehabilitation, and community supportive living. Located on more than 80 acres in a rural community outside of Milwaukee in Waterford, Wisconsin, residents at Lakeview Care

Partners at Waterford access a variety of programs and services including an individualized program of daily activities, supervision and support services, health monitoring services, information and referral services, leisure activities, behavioral services, and functional living skills, which are incorporated into a community reentry program. Lakeview Care Partners at Waterford is a specialty CBRF and resident’s length of stay is based on specific treatment outcomes and goals. “Discharge planning begins at the time of admission. The resident, family, and treatment team discuss treatment goals, possible discharge placements and length of stays.”

The setting is integrated in and supports full access to the greater community [42 CFR § 441.301(c)(4)(i)].

The community considers the setting a part of their community and does not associate the setting with institutional services.

Met Unmet Not Applicable

- Staff interviews conducted during the onsite review reveal that the greater Waterford and Milwaukee communities view services at Lakeview as comprehensive and the assisted living as non-institutionalized. Staff talked about church services that are conducted each week on campus and are open to the community. The Waterford Chamber of Commerce meets at the Lakeview Campus as well.
- Lakeview Specialty Hospital along with Lakeview Care Partners at Waterford CBRF operates a horse farm, which is open to the public for special events, picnics and rides
- One of the program features of the CBRF is the “community reentry program” which includes activities in the community- shopping, recreational and special events.
- During the onsite review, staff shared that community members come to Lakeview Care Partners to attend brain injury support group meetings. Additionally, residents that have been discharged to the community may return for meetings and support groups.

Individuals, to the extent they desire, have opportunities to participate in typical community life activities outside of the setting.

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning: The plan must be based on an assessment that addresses the person’s “capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known” and “social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs.” (Summarized from [Wis. Admin. Code § DHS 83.35](#))

Program Services: Community activities. The CBRF shall provide information and assistance to facilitate participation in personal and community activities. The CBRF shall develop, update and make available to all residents, monthly schedules and notices of community activities, including costs. ([Wis. Admin. Code § DHS 83.38\(1\)\(d\)](#))

Family and social contacts: The CBRF shall encourage and assist residents in maintaining family and social contacts. (Wis. Admin. Code § DHS 83.38(1)(e))

Met Unmet Not Applicable

- Lakeview Care Partners at Waterford’s Resident and Family Handbook, written specifically for the resident and family involvement in treatment and care. “Lakeview believes it is important for Residents and their families to receive orientation and explanation of services.”
- Person-centered plans are written in concert with the resident’s family. Short and long-term objectives for family visits, contacts, etc. are written in the resident’s ISPs.
- A main section of the ISP, (h), is Social Participation- “including interpersonal relationships, leisure time activities, and family and community contacts.”

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- Lakeview Care Partners at Waterford is a specialty CBRF and resident’s length of stay is based on specific treatment outcomes and goals. “Discharge planning begins at the time of admission. The resident, family, and treatment team discuss treatment goals, possible discharge placements and length of stays.”

Activities are individualized or include more than just setting-based group activities.

Met Unmet Not Applicable

- The program statement, Services Section, highlights that “Services include an individualized program of daily activities, supervision and support services, information and referral services, leisure activities and functional skills which are incorporated into a community reentry program.”
- Residents set a weekly schedule of activities that are developed individually and include meal planning, shopping, personal shopping and community based leisure and recreational activities.
- Upon admission, a general activity assessment is conducted for each resident which includes: Current interests and hobbies, Attitudes towards Activities, Emotional Concerns and a treatment plan is developed for each resident with goals as well as suggested activities and interventions.
- A review of one person-centered plan supports a goal of long-term discharge in the community through weekly meal planning, trips to the grocery store, creating a shopping list, assisting with transportation and active participation in the ISP process. A testimonial from a resident who was in long term rehab and then at the CBRF explains that “since I arrived at Lakeview I have lost 300 pounds and have turned my life around and I owe all to the care and special programming at Lakeview.” “I have specialized routines, aerobic and exercise programs as well as diet and nutritional plans that have helped me reach my goals.”

The setting supports access to community activities through its own transportation or coordination of transportation options.

Met Unmet Not Applicable

“Lakeview utilizes several transportation agencies dependent upon resident’s needs coordinates’ transportation. Specialized transportation is available to qualified residents and services include Medix or Bell Ambulance.” Lakeview also has five vans available for transportation, and two accessible vans. A number of the CBRF staff are certified to drive accessible vehicles.”

Individuals, if they choose, have opportunities to seek employment and work in competitive integrated settings.

Met Unmet Not Applicable

- One key to Lakeview Care Partners at Waterford’s specialty programs and services is coordination of programs and individualized plans. There are structured programs at the CBRF but aside from those programs, many residents also access services through the Division of Vocational Rehabilitation (vocational and employment training), and Gateway Technical College (GED preparation and work study).
- Discharge planning and community reunification is fundamental to each resident’s success at Lakeview. Program activities include hands-on training in community mobility skills (traffic and crossing streets), map reading, following directions, seeking housing solutions, etc.
- A review of the person-centered plans confirmed that two residents, waiting for discharge to the community, work part-time in the community.

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning:

The plan must be based on an assessment that addresses the person’s “capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known” and “social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs.” ([WI Statewide Transition Plan](#); Summarized from [Wis. Admin. Code § DHS 83.35](#)).

From contract between DHS and specific MCOs:

V. Care Management:

C. Assessment and Member-Centered Planning Process

C.1. Comprehensive Assessment

C.1.(c) Documentation: The comprehensive assessment will include documentation by the IDT staff of:

C.1.(c)(viii) An exploration with the member of the member's preferences and opportunities for community integration including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community.

C.3. Member-Centered Planning

C.3.(c)(iv)(g) The setting in which the member resides supports integration into 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.

VII. Services

A. General Provisions

1. Comprehensive Service Delivery System

c. Serve to maintain community connections, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, and that are cost effective.

Addendum I

It is the DHS's "expectation under this contract that benefits will be fully integrated and will afford options that foster opportunities for interaction and integration into 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 while supporting each member's individual outcomes and recognizing each member's preferences."

Met Unmet Not Applicable

- The foundation for the Lakeview Care Partners at Waterford's CBRF program is the community reentry program and all planning and services during each resident's stay is developed to reach a successful reentry. Through Lakeview's specialty hospital, based program residents have access to skilled therapy services- Physical, Occupational, Vocational, Speech and Language and mental health services. Additionally, residents are cross-serviced through the Wisconsin Department of Vocational Services, Gateway College, AA support groups and the Milwaukee Area Self Help Group for Traumatic Brain Injury.
- Individualized Service Plans, developed for each resident, provided by the CBRF. The plan, developed within 30 days of placement, updated, at a minimum, on a six-month basis.
- A review of three person-centered plans confirmed community reintegration goals for each of the residents: "Capacity for self-care, Capacity for self-direction, social participation, family and community contacts, and vocational and employment needs."

Individuals are able to control their personal resources.

Compliance within Wisconsin State Standards and Regulations

Every resident in a community-based residential facility has the right to "manage the resident's own financial affairs, unless the resident delegates, in writing, such responsibility to the facility and the facility accepts the responsibility or unless the resident delegates to someone else of the resident's choosing and that person accepts the responsibility." (Statewide Transition Plan; [Wis. Stat. § 50.09](#)).

Met Unmet Not Applicable

- Residents are able to control their own finances and can elect to establish an account up to \$200. Residents have access to their funds on a 24-hour basis.
- Money management is part of each resident’s person-centered plan and is part of one of the keys of the plan, which is “Capacity for self-direction.”

The setting is selected by the individual from among setting options including non-disability specific settings. [42 CFR § 441.301(c)(4)(ii)].

Compliance within Wisconsin State Standards and Regulations

Wisconsin has protections in place for Medicaid waiver participants which ensure they understand their choices. DHS waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are responsible for discussing choice of service settings with the waiver participant and family/guardian to locate the most suitable provider setting, including a discussion of living in a non-disability specific setting. In practice, the waiver agencies are complying with this requirement, and documenting and monitoring the choice of settings in the member-centered plan or IRIS support and service plan, as applicable.

In Wisconsin, the choice of setting requirement is not the initial responsibility of the provider setting. Rather the choice of setting takes place through the person-centered planning process at the waiver agency level. Waiver agencies are certified by DHS and work within the requirements of contracts with DHS. Through ongoing monitoring, Wisconsin will ensure that individuals maintain the right to choose where they reside.

Additionally, Wisconsin has protections in place through *Pre-Admission Consultation (PAC)*: <https://www.dhs.wisconsin.gov/adrc/pros/pac.htm>.

“Pre-admission consultation is a service provided by Aging and Disability Resource Centers (ADRCs) to individuals who are in the process of considering or making a decision about the need to move out of his or her home in order to receive the help they need to remain independent and safe. Sometimes people are unaware that there are services and supports that can be provided right in their own home, often making a move unnecessary. Those who want to move into a nursing home or assisted living facility (such as a community based residential facility or residential care apartment complex), can find it difficult to know which facility would be the best for them or a loved one.”

Met Unmet Not Applicable

- Although the population at Lakeview Care Partners at Waterford is specific to persons with traumatic brain injuries and other disabilities, each resident has “the right to be discharged home or transferred safely to another facility upon request.”
- A review of the Resident’s Rights Policy, Item 11, Least Restrictive Conditions- “refer to the individual’s right to have the least restrictive conditions necessary to achieve the purposes of admission to the CBRF. The CBRF staff will help any resident who appears ready for more independent living to contract any agencies needed to facilitate transfer arrangements. No curfew, rule, or other restriction on a resident’s freedom of choice will be imposed.”
- A review of sample person-centered plans documented discharge plans for two residents to move to a community based group home in the Milwaukee area.

The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and resources available for room and board. [42 CFR § 441.301(c)(4)(ii)].

Compliance within Wisconsin State Standards and Regulations

“COMPREHENSIVE INDIVIDUAL SERVICE PLAN Individual service plan review. Annually or when there is a change in a resident's needs, abilities or physical or mental condition, the individual service plan shall be reviewed and revised based on the assessment under sub. (1). All reviews of the individual service plan shall include input from the resident or legal representative, case manager, resident care staff, and other service providers as appropriate.” ([Wis. Admin. Code § DHS 83.35 \(1\)\(d\)](#))

Met Unmet Not Applicable

The Lakeview Care Partner is at Waterford CBRF Program Statement outlines the planning process for each resident. Item 11, Individualized Service Plans- assessments of current level of support and programming, Item, 12, Discharge Criteria and Community reentry program, Item 13, Discharge Process, Item 14, Community Resources, Item 15, Evaluation Plan and Item 16, Outcome Objectives.

- Individualized Service Plans- “Based on the assessment, the plan is developed for each resident, setting forth goals to be accomplished through services provided and arranged by the CBRF”.
- Discharge Criteria- plan, incorporated in the early stages of the ISP, and includes goals for medical, behavioral, independence and support for living in the community.
- Discharge Process- “Discharge planning begins at the time of admission. The resident, family and treatment team discuss goals, future placements and length of stay considerations.”
- Community Resources- “Dependent upon resident needs, referral to community resources is ongoing and may include support groups, individual counseling, mental health services, physical and occupational therapy, medical and home health services.”
- Evaluation Plan- Pre-discharge and post-discharge evaluation is available to each resident and family for services that are part of the ISP.
- Outcome Objectives- “A care plan staffing is conducted on a quarterly basis with the resident, his/her care team, family, etc.”

The setting facilitates choice regarding services and supports, and who provides them. Individuals have a choice in selecting their service providers, and are not reliant on services from the institution to the exclusion of other community-based options. Individuals can choose to receive services in the community to the same degree as individuals not receiving Medicaid HCBS. [42 CFR § 441.301(c)(4)(v)]

Compliance within Wisconsin State Standards and Regulations

Before or at the time of admission, the CBRF shall provide written information regarding services available and the charges for those services to each resident or the resident’s legal representative. This information shall include any charges for services not covered by the daily or monthly rate (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.29](#)).

Person-Centered Planning

- 3- “Options of services, providers, and settings, including non-disability specific settings, are offered to participants in all Wisconsin HCBS programs.” (WI Statewide Transition Plan; Summarized from Wis. HCBS waivers, waiver-specific contracts, and policy documents.)
- 4- Residents have the right to “use the licensed, certified or registered provider of health care and pharmacist of the resident’s choice.” ([Wis. Stat. § 50.09](#))

Met Unmet Not Applicable

- As part of the Resident Rights policy, each resident, under Treatment Choice, “Has the right to exercise complete choice of providers of physical and mental healthcare and of a pharmacist.”
- Resident choice documented in the resident’s ISP.

The setting optimizes, but does 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. [42 CFR § 441.301(c)(4)(iv)]

Compliance within Wisconsin State Standards and Regulations

Rights: Licensees must protect the civil rights of residents. Residents have the right to make decision relating to care, activities, daily routines, and other aspects of life that enhance the resident’s self-reliance and support the resident’s autonomy and decision-making. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.32](#)).

Person-Centered Planning: The plan must be based on an assessment that addresses the person's capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known, and social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts, and vocational needs. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.35](#)).

"The CBRF shall teach residents the necessary skills to achieve and maintain the resident's highest level of functioning." The CBRF shall provide or arrange services adequate to meet the needs of the residents including providing leisure time activities, facilitating participation in community activities, and encouraging and assisting residents in maintaining family and social contacts. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.38](#)).

Rights: Residents have the right to make decisions relating to care, activities, daily routines, and other aspects of life that enhance the resident's self-reliance and support the resident's autonomy and decision making, and have the least restrictive conditions necessary to achieve the purposes of the resident's admission. The CBRF may not impose a curfew, rule, or other restriction on a resident's freedom of choice. (Statewide Transition Plan; Summarized from Wis. Admin. Code § DHS 83.32).

Met Unmet Not Applicable

Residents have the right to:

- Private unrestricted communications
- Receive and send mail
- Make and receive phone calls- Phones are available at the CBRF and a number of residents have their own phones. At the onsite visit, the WI-FI service confirmed and the reviewer located available phones.
- To have private visitors and a private space to visit- A review of a resident's ISP described the weekly visit of the resident's daughter and girlfriend.
- Participation in social, religious and community groups

Individuals have the freedom and support to control their own schedules and activities. [42 CFR § 441.301(c)(4)(vi)(C)]

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning: The plan must be based on an assessment that addresses the person's "capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known" and "social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs." (Statewide Transition Plan, pg. 72; Summarized from Wis. Admin. Code § DHS 83.35) Rights: Licensees must protect the civil rights of residents. Residents have the right to make decision relating to care, activities, daily routines, and other aspects of life that enhance the resident's self-reliance and support the resident's autonomy and decision-making. (Summarized from Wis. Admin. Code § DHS 83.32)

Met Unmet Not Applicable

- Residents have the right to physical, emotional and privacy in treatment and living arrangements which includes:
 - Privacy for visit by spouse
 - Privacy concerning healthcare
 - Confidentiality of records
- Residents have the rights to perform meaningful activities- "indicated for therapeutic purposes and documented in the resident's treatment plan"- One of the plans that the reviewer read included an activity calendar for cooking classes for the resident.

The setting ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint, [42 CFR § 441.301(c)(4)(iii)].

Compliance within Wisconsin State Standards and Regulations

Rights: Residents have the right to be “treated with courtesy, respect and dignity by all employees of the facility and other providers of health care and pharmacists with whom the resident comes in contact.” ([Statewide Transition Plan](#), pg. 72; Summarized from [Wis. Stat. § 50.09](#)).

Residents must be provided with “physical and emotional privacy in treatment, living arrangements, and in caring for personal needs” including, privacy for visits by spouse or domestic partner, or to share a room with a spouse or domestic partner if both are residents for the same facility; privacy concerning health care; confidentiality of health and personal records; and the right to approve or refuse their release to any individual outside the facility. (Statewide Transition Plan, pg. 72; Summarized from Wis. Stat. § 50.09).

“Any form of coercion to discourage or prevent a resident or the resident’s legal representative from exercising any of the rights under this subchapter is prohibited. Any form of retaliation against a resident or the resident’s legal representative for exercising any of the rights in this subchapter, or against an employee or any other person who assists a resident or the resident’s legal representative in the exercise of any of the resident rights in this subchapter, is prohibited.” (Statewide Transition Plan, pg. 72; Wis. [Admin. Code § DHS 83.32](#)).

In addition, each resident shall have all of the following rights: freedom from mistreatment; freedom from seclusion; freedom from chemical restraint; and freedom from physical restraints, except upon prior review and approval by DHS upon written authorization from the resident’s primary physician or advanced practice nurse prescriber. DHS may place conditions on the use of a restraint to protect the health, safety, welfare, and rights of the resident. (Statewide Transition Plan; Summarized from Wis. Admin. Code § DHS 83.32).

Met Unmet Not Applicable

Residents Rights confirm that each resident has:

- Freedom from physical, sexual and mental abuse
- Right to be free from retaliation and humiliation
- Right to adequate, prompt and appropriate care
- Right to participate in the treatment planning process
- Right to treatment choice- confirmed through signature acknowledgment in the person-centered plan
- Right to a safe environment

Individuals are able to have visitors of their choosing at any time. [42 CFR § 441.301(c)(4)(vi)(D)]

Compliance within Wisconsin State Standards and Regulations

Rights: Residents have the right to private and unrestricted communications with their family, physician or other medical provider, attorney, and any other person, unless documented as medically contraindicated. The right to private and unrestricted communications includes the right to reasonable access to a telephone for private communications; and the opportunity for private visits. (WI Statewide Transition Plan; Summarized from Wis. Stat. § 50.09).

Met Unmet Not Applicable

- Each resident has the right to have private visitors, adequate time, and private space for visits.
- No curfew imposed. Lakeview Care Partners at Waterford CBRF residents asked to sign out if they are going out overnight or an extended visit.

Individuals have access to food at any time.

Compliance within Wisconsin State Standards and Regulations

The CBRF must provide each resident with palatable food that meets the recommended dietary allowance based on current guidelines, including at least three meals a day and a snack in the evening, or more often based on the resident’s dietary needs. If a resident is away during meal time, the CBRF shall offer food

to the resident on the resident's return. The CBRF shall make reasonable adjustments to the menu for individual resident likes, habits, customs, condition, and appetites. (Summarized from Wis. Admin. Code § DHS 83.41).

Met Unmet Not Applicable

- Lakeview Care Partners at Waterford CBRF offers choices at each meal for the residents. In addition, there are specialty diets for resident that require medical and nutritional consideration. A salad bar and optional food choices are available daily.
- Snack and beverages are available to the residents

The living unit is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services:

- The individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the applicable landlord/tenant laws.
- The State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law. [42 CFR § 441.301(c)(4)(vi)(A)]

Compliance within Wisconsin State Standards and Regulations

"Each resident shall have a written agreement that is signed by and provided to each party. The agreement includes a description of the space to be provided to the resident, the agreed upon rate, a statement of the resident's rights and the terms of termination, including timeframes. The agreement is updated annually." ([WI Statewide Transition Plan](#), pg. 77; [Wis. Admin. Code § DHS 83.29](#)).

The agreement must include terms for resident notification to the CBRF of voluntary discharge, and reasons and notice requirements for involuntary discharge or transfer, including transfers within the CBRF. (Summarized from [Wis. Admin. Code § DHS 83.31](#)).

Met Unmet Not Applicable

- Lakeview Care Partners at Waterford CBRF has a special population and terms of discharge and placement is documented in each person-centered plan. As part of the Resident Rights policy, each resident has the right to- "Make decisions relating to care, activities, daily routines, placement, and other aspects of life which will enhance the participants' self-reliance and support."
- At the onsite review in 2019, the reviewer confirmed that a review of the resident's medical and care binder included the resident's living space, adaptations, considerations, transfers and discharge. Residents are asked to sign reviews and are part of the current and future placement interventions.

Overcoming Institutional Presumption

The setting demonstrated a meaningful physical distinction between the HCBS setting and the institutional setting, including separate entrances and signage, physical divisions, and differences in décor.

Met Unmet Not Applicable

- Photo of CBRF signage is separate and reads- "Welcome to our Home- Lakeview CBRF"
- Photos of the resident rooms demonstrate that they are uniquely decorated by each resident and furnished with personal belongings, memorabilia and homey furnishings.
- The 20-bed CBRF is located across from the SNF but has separate signage, parking, and hallways and includes a training kitchen, activity area, and gym and wellness center.
- The SNF and rehabilitation center is institutional in décor and distinct from the CBRF.

Each individual has privacy in their sleeping or living unit.

Compliance within Wisconsin State Standards and Regulations

Residents must be provided with “physical and emotional privacy in treatment, living arrangements, and in caring for personal needs” including, privacy for visits by spouse or domestic partner, or to share a room with a spouse or domestic partner if both are residents for the same facility; privacy concerning health care; confidentiality of health and personal records; and the right to approve or refuse their release to any individual outside the facility. (Statewide Transition Plan; Summarized from Wis. Stat. § 50.09).

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance surveyors that the setting (DQA, [F-02138](#), HCBS Compliance Review):

- Provides lockable key entry doors on all resident rooms, and individual keys to all residents.
- Has a policy ensuring that staff uses facility keys to enter a resident’s room only under circumstances agreed upon with the resident.

Met Unmet Not Applicable

- Lakeview Care Partners at Waterford’s Key Policy states, “All residents are entitled to have locks to their living units.
- Each resident has a key to their unit and “In the event the resident and guardian/POA state they do not want a lock, it will be documented in their care plan.”
- The “Resident will exercise full authority to choose when to lock his/her door.”

Individual living units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.

Compliance within Wisconsin State Standards and Regulations

Locks on living unit doors allow the resident to exercise his or her right to privacy and personal choice. Staff in each residential setting should always knock and receive permission prior to entering a resident’s living space. DHS expects the residential setting to have a policy in place to ensure that staff always knock and receive permission prior to entering a resident’s room or personal living space to respect residents’ rights to privacy. Please refer to DHS’ [Frequently Asked Questions \(FAQs\) about Door Locks in Adult Long-Term Care Residential Settings](#) for additional lock-related information.

Met Unmet Not Applicable

- Staff access to keys are part of the key policy and “Staff will always be required to knock and receive permission prior to entering a resident’s room to respect the resident’s right to privacy.”
- Staff receive training on Residents Rights, which includes the privacy key policy, as part of their general orientation and annual review training

Individuals sharing units have a choice of roommates in that setting.

Compliance within Wisconsin State Standards and Regulations

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance surveyors that residents have choice of roommates (DQA, [F-02138](#), HCBS Compliance Review)

Person-Centered Planning: Family Care Provider Network, I. Access to Providers: “For residential care facilities, evidence of adequate capacity shall include identification of the availability of residential providers offering private rooms, and a process for moving an individual to a private room when one becomes available that is consistent with the member’s preferences.” ([DHS-MCO Contract, Article VIII, I\(6\)d](#))

Met Unmet Not Applicable

All of the living units at Lakeview Care Partners at Waterford are private.

Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement. [42 CFR § 441.301(c)(4)(vi)(B)(1-3)]

Compliance within Wisconsin State Standards and Regulations

Every resident in a community-based residential facility shall have the right to retain and use personal clothing and effects and to retain, as space permits, other personal possessions in a reasonably secure manner. (Summarized from Wis. Stat. § 50.09)

Met Unmet Not Applicable

Photos show living units that are private and personally furnished with the residents' belongings, etc. Posters adorn the walls of the bedrooms and each bedroom has a wide screen TV.

The setting is physically accessible to the individual. [42 CFR § 441.301(c)(4)(vi)(E)]

Compliance within Wisconsin State Standards and Regulations

The bedroom and congregate dining and living area for any resident requiring a specified level of care and who is blind or not fully ambulatory shall be on the first floor. (Summarized from Wis. Admin. Code § DHS 83.50)

Bedrooms shall be designed and equipped to allow residents to achieve the highest level of independent functioning and shall be fully accessible to the resident. Within the bedroom, each resident shall have, or be provided with a closet or wardrobe with clothes hanging rods and shelves, and drawer space adequate to reasonably meet the needs of the resident. The bedroom shall have adequate accessible space for a resident's wheelchair or other adaptive or prosthetic equipment. (Summarized from Wis. Admin. Code § DHS 83.54)

Met Unmet Not Applicable

- The two main entrances to the ground floor CBRF are fully accessible. Doorways to bedrooms are automatic and all doorways to common areas are automatic and accessible.
- Rooms, lounges, gym and activity areas are at least 32 inches wide. The CBRF unit has fully accessible bathrooms including roll-in showers and grab bars. The unit has seven complete, accessible bathrooms.
- Living units are completely adaptable. One of the bedrooms is equipped with a visual fire alarm.

Operational Distinction

The setting demonstrated meaningful operational distinction between the institution and the community-based setting, such as minimal administrative and financial interconnectedness.

Met Unmet Not Applicable

- Lakeview submitted a "Statement of Separation of Business Lines" which reads that Lakeview Care Partners is separately incorporated from Lakeview NeuroRehab Midwest Center.
- Lakeview Care Partners at Waterford CBRF has its own CBRF Director, Director of Programming and the Organizational Chart draws clear supervision lines away from the SNF and direct to the CBRF.
- Lakeview Care Partners at Waterford Organizational Chart lists the following direct positions at the CBRF- Director, Program Manager, Unit Coordinator, RN/Medical, CBRF Case Manager and Behavioral specialists.

There is a distinction between staff for the HCBS setting and the institutional setting. Staff working in the HCBS setting receive initial and ongoing training on HCBS settings rule requirements and principles, and person-centered planning.

Met Unmet Not Applicable

- Statement submitted confirms, “CBRF staff are not cross-trained with the SNF staff unless they work across both units.
- Annual training curriculum requirements for direct care staff and non-direct care staff include:
 - Anti-Harassment & Standards of Conduct
 - Cultural Diversity
 - Patient/Resident Rights, Grievances, Confidentiality Therapeutic Relationship, Abuse & Neglect
 - Professional Ethics
 - Fire Safety and Emergency Preparedness
 - Back Safety and Transfers OSHA – Prevention of Slips, Trips and Falls
 - Infection Control, Blood borne Pathogens, Biohazard Spills
 - Workplace Violence
 - Customer Service
 - Quality Assurance and Performance Improvement (QAPI)
 - Corporate Compliance
 - CBRF Training, HCBS settings

DHS Recommendation

Wisconsin can attest that [Lakeview Care Partners at Waterford CBRF](#) possesses the required home and community-based characteristics, is not isolating in nature, and overcomes the presumption of having institutional qualities.

Please note that these findings are preliminary only and must receive final approval from CMS.

In accordance with federal requirements, all compliance results will be made public by DHS. The decision will appear on the subsequent upload of facility information to DHS websites, including the [DQA Provider Search webpage](#) and the provider directories available at the [Consumer Guide to Health Care – Finding and Choosing an Assisted Living Facility webpage](#).

Ongoing Compliance

Wisconsin’s Division of Quality Assurance (DQA) will ensure through ongoing compliance reviews that [Lakeview Care Partners at Waterford CBRF](#) continues to meet the requirements of the HCBS Settings Rule. The DMS Bureau of Assisted Living (BAL) has incorporated the HCBS settings rule into its current assisted living survey process and activities. ([DQA Implementation of Home and Community-Based Services Settings Rule in Residential Assisted Living Facilities](#))

The Wisconsin Department of Health Services (DHS) and work within the requirements of contracts with DHS certify waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies –. State licensed settings are subject to unannounced licensing visits, both in response to complaints and during regular oversight visits, by the state licensing authority, or by the entity that certified the provider if not regulated by the state. As part of these periodic licensing or certification reviews, the credentialing entity will also review the setting for continued HCBS compliance. Providers will be required to address any HCBS rule deficiencies.

When HCBS participants are resident in the setting, waiver program care managers are required to have ongoing contact, including face-to-face visits, at which time any areas of concern would be identified and addressed. Each participant in a Medicaid home and community-based waiver program is further protected through the state’s long-term care ombudsman program, which has regular access to the assisted living setting. [Wisconsin’s Board on Aging & Long Term Care](#): The Board on Aging and Long Term Care advocates for the interests of Wisconsin’s long-term care consumers, informs those consumers of their rights and

educates the public about health care systems and long-term care. The Board also operates the [Long Term Care Ombudsman](#), and [Volunteer Ombudsman](#) services.

EVIDENTIARY ASSESSMENT AND SUMMARY
Home and Community-Based Services (HCBS) Settings Rule
Heightened Scrutiny Review – Residential Care Apartment Complex (RCAC)

Facility Name Legacy Senior Living Center Inc.		Facility Type Residential Care Apartment Complex (RCAC)	
Corporate Name (if applicable) Legacy Senior Living Center Inc.		License/Certification # 0014245	County Rusk
Facility Address 1001 E 11 th Street N	City Ladysmith	State WI	Zip Code 54848
Primary Contact Name Tonya Sweeney	Primary Contact Direct Phone (include area code) 715-532-5546	Primary Contact Email Address Tonyas@ladysmithcarecommunity.com	
Facility Website Address https://ladysmithcarecommunity.com/assisted-living/#legacy			

Reason for Institutional Presumption

- Settings in a publicly or privately operated facility that provides inpatient institutional treatment. [Ladysmith Living Center and Ladysmith Nursing Home](#)
- Settings on the grounds of, or adjacent to, a public institution. Name of institution: [Click or tap here to enter text.](#)
- Settings with the effect of isolating individuals from the broader community of individuals not receiving HCBS waiver services.

The Centers for Medicare and Medicaid Services' (CMS) HCBS settings rule assumes that certain settings are not home and community-based. If a Wisconsin assisted living facility (setting) meets one of the criteria for institutional presumption as defined above, the DHS Division of Medicaid Services (DMS) conducts a heightened scrutiny review.

DMS believes that [Legacy Senior Living Center Inc.](#) has overcome the institutional presumption and meets the criteria of a home and community-based services setting as summarized below.

To reinforce the extent to which Wisconsin's licensing and certification regulations and standards align with and reinforce the HCBS settings rule, the applicable state standard or regulation is included, where applicable, with the compliance review summary below.

Facility Summary

The City of Ladysmith, population 3,000, is the economic and cultural center Rusk County, population 14,000, with four rivers, 250 lakes, and 300 miles of snowmobile trails. Ladysmith boasts impressive railroad displays in the heart of the designated Main Street Community and serve as a reminder that the city was once a booming rail center. Cultural arts, music and dance performances are offered year-round. Many weekends feature a local fair or celebration.

Ladysmith's Northland Mardi Gras is a popular event in July with the unique and spectacular Venetian Night Parade on the Flambeau River. Located 60 miles from Eau Claire WI and 130 miles from Minneapolis, the area has the dual benefit of unpopulated outdoor space and the advantages of big cities.

Ladysmith Nursing Home SNF, Ladysmith Living Center SNF, and Legacy Senior Living Center RCAC are located in a quiet residential setting, adjoining a golf course, providing a beautiful landscape view. A single main entrance opens to a large common area and lobby with separate hallways to each of the three facilities. Legacy Senior Living Center (hereafter Legacy Senior Living) is a 20 unit RCAC serving individuals who need some assistance with personal and household tasks. Legacy Senior Living combines independent apartment living with personal and supportive care, as determined and agreed to with each tenant based on individual assessment and planning and individual preferences. Currently there are 13 residents at Legacy Senior Living and 1 resident supported by [Family Care](#).

The setting is integrated in and supports full access to the greater community [42 CFR § 441.301(c)(4)(i)].

The community considers the setting a part of their community and does not associate the setting with institutional services.

Met Unmet Not Applicable

Legacy Senior Living Center is a 20-unit RCAC serving individuals who need some assistance with personal and household tasks. The facility is separate from the two SNFs located on opposite wings of the apartments setting. Tenants come and go as they please, continue to drive if they are licensed, and participate in the same activities, groups and friendships they had before moving to Legacy Senior Living Center.

Individuals, to the extent they desire, have opportunities to participate in typical community life activities outside of the setting.

Compliance within Wisconsin State Standards and Regulations

From [contract between SMA and specific MCOs](#):

ADDENDUM VI.

Personal Experience Outcomes in Long-Term Care:

Assisting people to achieve their desired individual quality-of-life outcomes is one of the primary goals of managed long-term care. The following personal experience outcome domains are the areas of life that people in long-term care programs have identified as being important to their quality of life. They provide a framework for learning about and understanding the individual's needs, values, preferences, and priorities in the assessment and care planning process and in monitoring the quality of our long-term care programs. It is expected that each of these domains will be assessed during the member-centered planning process.

Choice – choosing:

- Where and with whom to live
- Supports and services
- Daily routines

Personal Experience – having:

- Interaction with family and friends
- Work or other meaningful activities
- Community involvement
- Stability
- Respect and fairness
- Privacy

Each participant in a Medicaid home and community-based waiver program must have a person-centered plan that, when indicated, includes any conditions that are to be applied to the conditions defined in the HCBS settings rule. (Wisconsin HCBS waivers, waiver-specific contracts, and policy documents)

Met Unmet Not Applicable

Ladysmith offers many activities for the public, including a farmers market, car show, and the county fair. Legacy Senior Living Center residents can choose to go out where ever they wish and frequently join in on the city's events. Tenants can walk across the street to visit several nearby community businesses including the bowling alley and a pizza place, and the Tee-Away Golf and Supper Club. A short way up the highway is a mini golf and ice cream shop as well East Mart gas station and a convenience store. The campus has access to Memorial Park on the Flambeau River. Mardi Gras is held every July in the park along with a parade that goes through the downtown. There are many events during the year, Winter Magic, Leaf It To Rusk, Music in the Park, and Music on Miner, which also includes a car show.

Flambeau Valley Arts holds many music and theater events in the High School Auditorium, which is just east of the RCAC apartments. One tenant submitted her afghan to the county fair and won a blue ribbon. A testimonial from a resident states that occasionally he drives to the Twin Cities to stay with a friend for the weekend, going out to dinner, going to the race track and to the casino. He also drives to visit his family. The personal outcomes section of the MCP planning and review process discusses activities members would like to do based on their history and preference.

Activities are individualized or include more than just setting-based group activities.

Met Unmet Not Applicable

The Legacy Senior Living service agreement includes "Planned Activities. Staff will offer regular social and recreational activities, including periodic scheduled outings. All residents are welcome and encouraged to participate in these activities." The Coordination/Individualization of Services policy provides that "all services will be tailored to each individual's specific needs and be personalized to reflect individual needs, strengths, and goals." Legacy Senior Living tenants can come and go as they wish and participate in activities on and off site, according to their preferences. Currently two tenants have their own vehicles, but typically, there are four tenant cars in the parking lot.

The setting supports access to community activities through its own transportation or coordination of transportation options.

Met Unmet Not Applicable

The Legacy Senior Living resident service agreement lists transportation under section "9: Transportation. Arrangements for transportation must be coordinated with the Manager or designee. The Key Care van will be used unless otherwise stated and as available, with charges billed according to their fee schedule. If not available, the Manager will assist in obtaining another provider and assuring charges for those services are determined prior to use." Rush County ADRC resource directory lists several transportation options in Ladysmith and Rusk County including a volunteer driver program and a veteran's transportation program for visits to VA hospital or clinics. The city of Ladysmith has a wheelchair accessible bus service operating seven days/week including Saturday and Sunday mornings. On Sundays, there is a \$0.25 "church fare." There are discounted fares for people age 60+ and persons with disabilities. Family and friends assist residents with transportation or they may have their own vehicle if they are licensed. Currently two of the thirteen residents have their own vehicle.

Individuals, if they choose, have opportunities to seek employment and work in competitive integrated settings.

Compliance within Wisconsin State Standards and Regulations

From contract between DHS and specific MCOs:

V. Care Management:

C. Assessment and Member-Centered Planning Process

C.1. Comprehensive Assessment

C.1.(c) Documentation: The comprehensive assessment will include documentation by the IDT staff of:

C.1.(c)(viii) An exploration with the member of the member's preferences and opportunities for community integration including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community.

C.3. Member-Centered Planning

C.3.(c)(iv)(g) The setting in which the member resides supports integration into 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.

VII. Services

A. General Provisions

1. Comprehensive Service Delivery System

c. Serve to maintain community connections, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, and that are cost effective.

Addendum I

It is the DHS's "expectation under this contract that benefits will be fully integrated and will afford options that foster opportunities for interaction and integration into 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 while supporting each member's individual outcomes and recognizing each member's preferences."

Met Unmet Not Applicable

Legacy Senior Living residents who are supported with waiver funds discuss employment opportunities at each member centered plan review. Tenants may work or volunteer outside the facility if they wish.

Individuals are able to control their personal resources.

Compliance within Wisconsin State Standards and Regulations

Each tenant has the right to manage his or her own financial affairs, unless the tenant delegates responsibility to another person or the tenant has a guardian. (Summarized from [Wis. Admin. Code § DHS 89.34](#))

From [contract between SMA and specific MCO](#):

V. Care Management:

C. Assessment and Member-Centered Planning Process

C.1. Comprehensive Assessment

C.1.(c) The comprehensive assessment will include documentation by the interdisciplinary (IDT) staff of all of the following:

(ix) An exploration with the member of the member's preferences and opportunities for community integration including opportunities to control personal resources.

C.3. Member-Centered Plan (MCP)

C.3.(c)(iv) The MCP shall document at least the following:

(g) The setting in which the member resides supports integration into the greater community, including opportunities to control personal resources.

Met Unmet Not Applicable

Legacy Senior Living’s resident handbook provides for a resident trust fund: “If the resident wishes to deposit personal funds, the facility agrees to safeguard those funds in accordance with the state and federal regulations.” This specifies placing the funds in an interest bearing account, not co-mingling a resident’s money with the facility, and the timeframe for a resident to request and receive his funds. The resident rights document specifies that residents have the right to management of their financial affairs. In addition, since residents can come and go as they wish, they can continue banking with whichever financial institution they want to. Ladysmith has several banking choices and ATMs.

Choice, Independence, and Person-Centered Planning

The setting is selected by the individual from among setting options including non-disability specific settings. [42 CFR § 441.301(c)(4)(ii)].

Compliance within Wisconsin State Standards and Regulations

Wisconsin has protections in place for Medicaid waiver participants which ensure they understand their choices. DHS waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are responsible for discussing choice of service settings with the waiver participant and family/guardian to locate the most suitable provider setting, including a discussion of living in a non-disability specific setting. In practice, the waiver agencies are complying with this requirement, and documenting and monitoring the choice of settings in the member-centered plan or IRIS support and service plan, as applicable.

In Wisconsin, the choice of setting requirement is not the initial responsibility of the provider setting. Rather the choice of setting takes place through the person-centered planning process at the waiver agency level. Waiver agencies are certified by DHS and work within the requirements of contracts with DHS. Through ongoing monitoring, Wisconsin will ensure that individuals maintain the right to choose where they reside.

Additionally, Wisconsin has protections in place through *Pre-Admission Consultation (PAC)*: <https://www.dhs.wisconsin.gov/adrc/pros/pac.htm>

“Pre-admission consultation is a service provided by Aging and Disability Resource Centers (ADRCs) to individuals who are in the process of considering or making a decision about the need to move out of his or her home in order to receive the help they need to remain independent and safe. Sometimes people are unaware that there are services and supports that can be provided right in their own home, often making a move unnecessary. Those who want to move into a nursing home or assisted living facility (such as a community based residential facility or residential care apartment complex), can find it difficult to know which facility would be the best for them or a loved one.”

From [contract between SMA and specific MCOs](#):

- V. Care Management:
 - A. Member Participation:
 - A.2. Members shall receive clear explanations of:
 - d. The full range of residential options, including in-home care, residential care and nursing home care when applicable.
 - e. The benefits, drawbacks and likelihood of success of each option.
 - C.1. Comprehensive Assessment
 - C.1. (ix) – An exploration with the member of the member’s preferred living situation and a risk assessment for the stability of housing and finances to sustain housing as indicated.

C.3. Member-Centered Plan (MCP)

C.3.(c)(iv) The MCP shall document at least the following:

(f) – The home and community-based residential setting option chosen by the member and other options presented to the member unless the member declines to consider other options.

ADDENDUM VI.

Personal Experience Outcomes in Long-Term Care:

Assisting people to achieve their desired individual quality-of-life outcomes is one of the primary goals of managed long-term care. The following personal experience outcome domains are the areas of life that people in long-term care programs have identified as being important to their quality of life. They provide a framework for learning about and understanding the individual's needs, values, preferences, and priorities in the assessment and care planning process and in monitoring the quality of our long-term care programs. It is expected that each of these domains will be assessed during the member-centered planning process.

Choice – choosing:

- Where and with whom to live
- Supports and services

50.034, Stats

WI State Statute 50.034 Residential care apartment complexes.

5n) Required referral. Subject to sub. (5p), when a residential care apartment complex first provides written material regarding the residential care apartment complex to a prospective resident who is at least 65 years of age or has developmental disability or a physical disability and whose disability or condition is expected to last at least 90 days, the residential care apartment complex shall refer the prospective resident to a resource center under s. 46.283, unless any of the following applies:

- 50.034(5n)(c) The person is an enrollee of a care management organization.

Person-Centered Planning: Options of services, providers, and settings, including non-disability specific settings, are offered to participants in all Wisconsin HCBS programs. (Statewide Transition Plan, pg. 85; Wisconsin HCBS waivers, waiver-specific contracts, and policy documents)

Met Unmet Not Applicable

Nearly all the tenants at Legacy Senior Living choose to live there prior to becoming eligible for waiver- supported services. If they need to apply for medical assistance, a referral is made to the ADRC for options counseling. If the individual chooses an MCO, an assessment and member centered plan is developed. At that time, options of services, providers and settings are discussed. If the member chooses to live or chooses to continue to live at Legacy Senior Living, a residency assessment and individualized service plan will be developed. Each plan update includes discussion about where the individual wants to live. One member-centered plan indicates that the individual needs the supports of the RCAC following some health declines, but would like to return home, however his home is not physically accessible for him. He is in discussion with his managed care team about his living situation at this time.

The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and resources available for room and board. [42 CFR § 441.301(c)(4)(ii)].

Compliance within Wisconsin State Standards and Regulations

Wisconsin Admin. Code ch. DHS 89 is intended “to establish standards and procedures for the certification or registration of residential care apartment complexes in order to promote the health and safety of persons residing in and receiving services from those facilities. This chapter is intended to ensure that all residential care apartment complexes provide each tenant with an independent apartment in a setting that is home-like and residential in character; make

available personal, supportive and nursing services that are appropriate to the needs, abilities and preferences of individual tenants; and operate in a manner that protects tenants' rights, respects tenant privacy, enhances tenant self-reliance and supports tenant autonomy in decision-making including the right to accept risk." ([Wis. Admin. Code § DHS 89.11](#))

The tenant has the right to choose services and the right to refuse services. The tenant has the right to receive visitors, meet with groups, or participate in activities of the tenant's choice, to receive and send sealed mail, and to have a private phone installed in his or her independent apartment. (Summarized from [Wis. Admin. Code § DHS 89.34](#))

Each tenant has the right to: manage his or her own financial affairs, unless the tenant delegates responsibility to another person or the tenant has a guardian; have choice of his or her physician and other medical providers; and a choice of providers of supportive, personal, and nursing services from providers other than the residential care apartment complex, subject to the requirements of [Wis. Admin. Code § DHS 89.24\(2\)\(b\)](#).

From [contract between SMA and specific MCOs](#):

V. Care Management:

C. Assessment and Member-Centered Planning Process:

Member-centered planning reflects understanding between the member and the IDT staff and will demonstrate changes that occur with the member's outcomes and health status. The member is always central to the member centered planning and comprehensive assessment process. The IDT staff will ensure that the member is at the center of the member centered planning process. The member will actively participate in the planning process, in particular, in the identification of personal outcomes and preferences.

Met Unmet Not Applicable

Most tenants at Legacy Senior Living moved there prior to becoming eligible for waiver- supported services. When a tenant becomes eligible for family care, the assessment and MCP will include review and discussion of settings options and member preferences. The mission statement for Legacy Senior Living states "With respect to each resident's individuality, dignity, and personal choices, our team will work closely with resident to develop a resident defined program meeting physical and psychosocial needs and wants."

The setting facilitates choice regarding services and supports, and who provides them. Individuals have a choice in selecting their service providers, and are not reliant on services from the institution to the exclusion of other community-based options. Individuals can choose to receive services in the community to the same degree as individuals not receiving Medicaid HCBS. [42 CFR § 441.301(c)(4)(v)]

Compliance within Wisconsin State Standards and Regulations

From Contract Between SMA and Each MCO:

VIII. Provider Network,

A. Member Choice

1. Information to Members: The MCO shall inform members about the full range of provider choice available to them, including free choice of medical and other providers that remain fee-for-service for Family Care members, as applicable.

From [IRIS Policy Manual](#)

1.1C Philosophy

Self-direction means people have more choice, control, flexibility, freedom, and responsibility. Within the context of IRIS, self-direction means participants decide upon the following:

- The goods, supports, and services needed to help live the life he or she wants while meeting his or her long-term care outcomes.
- The amount and location that goods, supports, and services are provided, as well as decisions on the provider of these services.

Person-Centered Planning:

- Options of services, providers, and settings, including non-disability specific settings, are offered to participants in all Wisconsin HCBS programs. (Statewide Transition Plan, pg. 87; Summarized from Wis. HCBS waivers, waiver-specific contracts, and policy documents.)
- Residents have the right to “receive adequate and appropriate care within the capacity of the facility” and to “use the licensed, certified or registered provider of health care and pharmacist of the resident’s choice.” ([Wis. Stat. § 50.09](#))

Rights:

- The tenant has the right to choose services and the right to refuse services. (WI Statewide Transition Plan, pg. 84; Summarized from Wis. Admin. Code § DHS 89.34)
- Each tenant has the right to: have choice of his or her physician and other medical providers; and a choice of providers of supportive, personal, and nursing services from providers other than the residential care apartment complex, subject to the requirements of [Wis. Admin. Code § DHS 89.24\(2\)\(b\)](#). (WI Statewide Transition Plan, pg. 85; Summarized from Wis. Admin. Code § [DHS 89.34](#))

Met Unmet Not Applicable

The Legacy Senior Living policy for coordination/individualization of services “All services will be tailored to each individual’s specific needs and be personalized to reflect individual needs, strengths, and goals.” The resident rights policy provides for privacy, self-direction, management of financial affairs, services choice and choice of healthcare providers: medical, mental health, and pharmaceutical services. Facility documents refer to the individual resident’s primary physician.

The setting optimizes, but does 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. [42 CFR § 441.301(c)(4)(iv)]

Compliance within Wisconsin State Standards and Regulations

Wisconsin Admin. Code ch. DHS 89 is intended “to establish standards and procedures for the certification or registration of residential care apartment complexes in order to promote the health and safety of persons residing in and receiving services from those facilities. This chapter is intended to ensure that all residential care apartment complexes provide each tenant with an independent apartment in a setting that is home-like and residential in character; make available personal, supportive and nursing services that are appropriate to the needs, abilities and preferences of individual tenants; and operate in a manner that protects tenants’ rights, respects tenant privacy, enhances tenant self-reliance and supports tenant autonomy in decision-making including the right to accept risk.” ([Wis. Admin. Code § DHS 89.11](#))

Each tenant will have a service agreement based on an assessment conducted with the active participation of the tenant. The service agreement includes the type, amount, and frequency of any services to be provided to the tenant, any additional services that are available, and the activities and social connections the tenant will be assisted in maintaining. (Summarized from [Wis. Admin. Code §§ DHS 89.26 and 89.27](#))

The tenant has the right to choose services and the right to refuse services. The tenant has the right to receive visitors, meet with groups or participate in activities of the tenant’s choice, to receive and send sealed mail, and to have a private phone installed in his or her independent apartment. (Summarized from [Wis. Admin. Code § DHS 89.34](#))

Met Unmet Not Applicable

The Legacy Senior Living resident rights assures self-direction. The philosophy of assisted living document states that assisted living is designed “... to maximize the resident’s changing needs and preferences . . . and to maximize the resident’s dignity, autonomy, privacy, independence, choice and safety.” The policy for coordination/individualization of services “All services will be tailored to each individual’s specific needs and be personalized to reflect individual

needs, strengths, and goals.” The resident rights policy provides for privacy, self-direction, management of financial affairs, services choice and choice of healthcare providers: medical, mental health, and pharmaceutical services. Facility documents refer to the individual resident’s primary physician.

Individuals have the freedom and support to control their own schedules and activities. [42 CFR § 441.301(c)(4)(vi)(C)]

Compliance within Wisconsin State Standards and Regulations

Wisconsin Admin. Code ch. DHS 89 is intended “to establish standards and procedures for the certification or registration of residential care apartment complexes in order to promote the health and safety of persons residing in and receiving services from those facilities. This chapter is intended to ensure that all residential care apartment complexes provide each tenant with an independent apartment in a setting that is home-like and residential in character; make available personal, supportive and nursing services that are appropriate to the needs, abilities and preferences of individual tenants; and operate in a manner that protects tenants' rights, respects tenant privacy, enhances tenant self-reliance and supports tenant autonomy in decision-making including the right to accept risk.” ([Wis. Admin. Code § DHS 89.11](#))

Met Unmet Not Applicable

Legacy Senior Living’s policy for coordination/individualization of services “All services will be tailored to each individual’s specific needs and be personalized to reflect individual needs, strengths, and goals.” The resident rights policy provides for privacy, self-direction, management of financial affairs, services choice and choice of healthcare providers: medical, mental health, and pharmaceutical services. Tenants may come and go as they please, can choose their daily activities and with whom to interact. Tenants participate in community activities as they choose just as they did prior to moving there. The resident rights document states that tenants receive visitors, meet with groups or participate in activities of the residents’ choice.

The setting ensures an individual’s rights of privacy, dignity and respect, and freedom from coercion and restraint, [42 CFR § 441.301(c)(4)(iii)].

Compliance within Wisconsin State Standards and Regulations

Legacy Senior Living Center Inc. is a residential care apartment complex (RCAC). RCACs are independent apartments that offer additional services, if needed. The services provided to tenants are based on the tenant’s selection from a menu of services and supports, both in the setting and in the community. A tenant may choose to do most activities independently or have more comprehensive assistance.

State-regulated settings are subject to unannounced licensing visits, both in response to complaints and during regular oversight visits. In addition, when HCBS participants are resident in the setting, waiver program care managers are required to have ongoing contact, including face-to-face visits, at which time any member rights issues would be identified and addressed.

Rights: A tenant has the right “to have privacy in his or her independent apartment and when receiving supportive, personal or nursing services.” The tenant has the right “to be free from physical, sexual or emotional abuse, neglect or financial exploitation or misappropriation of property by the facility, its staff or any service provider under contract with the facility” and has the right to be free from coercion. (Statewide Transition Plan, pgs. 85-86; Summarized from Wis. Admin. Code §§ DHS [89.34](#) and [89.36](#))

DHS prohibits the use of restraint or seclusion of waiver participants unless the specific restraint or seclusion intervention has been reviewed and approved by DHS. Use of restraint and/or isolation is monitored by waiver agencies and DHS. Guidelines on restraints and isolation are found at: www.dhs.wisconsin.gov/waivermanual/appndx-r1.pdf and www.dhs.wisconsin.gov/dqa/memos/15-003.pdf (WI Statewide Transition Plan)

Met Unmet Not Applicable

The Legacy Senior Living resident rights document clearly provides for the rights of privacy, dignity, respect, and freedom from coercion and restraint.

Individuals are able to have visitors of their choosing at any time. [42 CFR § 441.301(c)(4)(vi)(D)]

Compliance within Wisconsin State Standards and Regulations

“Each independent apartment shall be of adequate size and configuration to permit tenants to carry out, with or without assistance, all the functions necessary for independent living, including... entertaining visitors.” (WI Statewide Transition Plan; [Wis. Admin. Code § DHS 89.22](#))

The tenant has the right to receive visitors, meet with groups, or participate in activities of the tenant’s choice, to receive and send sealed mail, and to have a private phone installed in his or her independent apartment. (WI Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 89.34](#))

Met Unmet Not Applicable

- *Resident Rights subchapter III “. . . (8) ASSOCIATION:* “To receive visitors, meet with groups or participate in activities of the resident's choice....”
 - *Service Agreement:* For security, building is locked from 9:00-7:00 but can ring the bell to be let in
 - *RCAC Handbook:* “Visiting hours are unrestricted and relatives and friends may visit at any hour. For resident safety, the doors are secured between the hours of 9pm and 7am. If visitors or residents need entrance during these hours a door bell is located in the front lobby where staff will open for them.”
 - *Service agreement, Section I.4.:* The Residents may not have guests reside with them for more than 14 days each year unless separate arrangements are made in advance with the Legacy Senior Living Center Manager
-

Individuals have access to food at any time.

Compliance within Wisconsin State Standards and Regulations

A “Residential care apartment complex’ consists of independent apartments, each of which has an individual lockable entrance and exit, a kitchen, including a stove, and individual bathroom, sleeping and living areas” ([Wis. Admin. Code § DHS 89.13](#))

Each independent apartment shall have a kitchen that is “a visually and functionally distinct area within the apartment. The refrigerator shall have a freezer compartment. The sink shall have hot and cold running water.” (Wis. Admin. Code § DHS 89.22)

Met Unmet Not Applicable

- *Service Agreement section B.4.Meals:* “Legacy Senior Living Center will provide two (2) meals per day, seven (7) days per week served in the common dining room as part of the Hospitality Services.”
 - *Resident Handbook:* A substitute meal is available upon request if the resident does not care for the meal being served. The staff will determine the substitute meal. If the substitute is desired please notify staff two hours prior to the meal.” All apartments have a kitchenette area with a refrigerator/freezer, range and/or microwave.
-

The living unit is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services. The individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under applicable landlord/tenant laws. The State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord/tenant laws. [42 CFR § 441.301(c)(4)(vi)(A)].

Compliance within Wisconsin State Standards and Regulations

A residential care apartment complex shall enter into a mutually agreed-upon written service agreement with each of its tenants. The agreement shall include the services and the charges for any services in the service agreement and any additional services that are available for purchase. The agreement must also include the grounds for any termination of the agreement. (WI Statewide Transition Plan, pg. 88; Summarized from Wis. Admin. Code § [DHS 89.27](#))

Met Unmet Not Applicable

The service agreement includes sections on Terms of Agreement and Termination of Agreement. A thirty-day notice is required except for certain criteria as permitted in DHS 89.27.

Overcoming Institutional Presumption

The setting demonstrated a meaningful physical distinction between the HCBS setting and the institutional setting, including separate entrances and signage, physical divisions, and differences in décor.

Met Unmet Not Applicable

Legacy Senior Living shares the main entrance with two SNFs but the outside signage clearly indicates three separate facilities. Upon entering the lobby and a large common area, separate hallways lead to each separate facility. The website shows several pictures of apartments, each showing personal furniture and possessions, which are not typical of institutional rooms.

Each individual has privacy in their sleeping or living unit.

Compliance within Wisconsin State Standards and Regulations

A “residential care apartment ‘complex’ or ‘facility’... consists of independent apartments, each of which has an individual lockable entrance and exit, a kitchen, including a stove, and individual bathroom, sleeping and living areas...” ([Wis. Admin. Code § DHS 89.13](#))

A tenant has the right “to have privacy in his or her independent apartment and when receiving supportive, personal or nursing services.” The tenant has the right “to be free from physical, sexual or emotional abuse, neglect or financial exploitation or misappropriation of property by the facility, its staff or any service provider under contract with the facility” and has the right to be free from coercion. (Summarized from Wis. Admin. Code §§ DHS 89.34 and 89.36)

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance (DQA) surveyors that the setting (DQA, [F-02138](#), HCBS Compliance Review):

- Provides lockable key entry doors on all resident rooms, and individual keys to all residents.
- Has a policy ensuring that staff uses facility keys to enter a resident’s room only under circumstances agreed upon with the resident.

Met Unmet Not Applicable

Two people can share all apartments at Legacy Senior Living and there are four larger double rooms. All current residents (13) have single rooms, but if a couple or siblings/friends wished to share an apartment, they could. All apartments have locks and tenants have a key to their unit. The key policy delineates the specific reasons staff may need to enter the apartment and “ensure(s) staff is knowledgeable of resident’s right to privacy.”

Individual living units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.

Compliance within Wisconsin State Standards and Regulations

Each independent apartment shall have “an individual lockable entrance and exit. A single door may serve as both entrance and exit. Keys to the door to the independent apartment and to the residential care apartment complex shall be supplied to the tenant.” ([Wis. Admin. Code § DHS 89.22](#))

“‘Individual lockable entrance and exit’ means a door that provides access to an independent apartment and is equipped with an individually keyed lock which is operable from both inside and outside the unit and which the tenant can open, close and lock to ensure privacy.” ([Wis. Admin. Code § DHS 89.13](#))

Locks on living unit doors allow the resident to exercise his or her right to privacy and personal choice. Staff in each residential setting should always knock and receive permission prior to entering a resident's living space. DHS expects the residential setting to have a policy in place to ensure that staff always knock and receive permission prior to entering a resident's room or personal living space to respect residents' rights to privacy. Please refer to DHS' [Frequently Asked Questions \(FAQs\) about Door Locks in Adult Long-Term Care Residential Settings](#) for additional lock-related information.

Met Unmet Not Applicable

Key Policy: "To ensure staff is knowledgeable of resident's right to privacy and... the use and safekeeping of the master key." It states the master key can be used:

- 1) If the resident is not in the dwelling unit staff will need to request permission to enter for cleaning purposes;
- 2) If dwelling is locked when resident is inside they need to knock prior to entering for well-being checks;
- 3) In case of emergency appropriate staff will use master key to gain access to evacuate and/or assist the resident; and
- 4) Staff will be in-serviced annually and as needed on Residents Rights and use and Safe keeping of master key."

Service Agreement, Section I, #8: "Whenever feasible, Legacy Senior Living Center will attempt to give each Resident reasonable notice before entering their suite."

Individuals sharing units have a choice of roommates in that setting.

Compliance within Wisconsin State Standards and Regulations

"Multiple occupancy of an independent apartment shall be limited to a spouse or a roommate chosen at the initiative of the tenant." ([Wis. Admin. Code § DHS 89.22](#))

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance surveyors that residents have choice of roommates (DQA, [F-02138](#), HCBS Compliance Review).

Person-Centered Planning: Family Care Provider Network, I. Access to Providers: "For residential care facilities, evidence of adequate capacity shall include identification of the availability of residential providers offering private rooms, and a process for moving an individual to a private room when one becomes available that is consistent with the member's preferences." ([DHS-MCO Contract, Article VIII, I\(6\)d](#))

Met Unmet Not Applicable

Service Agreement: "A second person residing in the apartment is charged a lesser fee; see Schedule of Fees" and *Section I.4: Guests:* "The right of occupancy under this Agreement is limited to the resident and/or spouse or a roommate chosen at the initiative of the resident (each resident will sign a separate Resident Service Agreement) with accordance to DHS 89. The Resident's apartment may not be occupied by any other persons."

Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement. [42 CFR § 441.301(c)(4)(vi)(B)(1-3)]

Compliance within Wisconsin State Standards and Regulations

A tenant has the right "to furnish his or her independent apartment and to maintain personal possessions as space permits as long as the tenant does not unreasonably interfere with the other tenants' choices or endanger the health or safety of the other tenants." (WI Statewide Transition Plan; [Wis. Admin. Code § DHS 89.34](#))

Met Unmet Not Applicable

RCAC resident handbook,

subchapter III, (7) FURNISHINGS AND POSSESSIONS: “To furnish his or her independent apartment and to maintain personal possessions as space permits as long as the resident does not unreasonably interfere with the other residents' choices or endanger the health or safety of the other residents.

Resident Service Agreement, #3 Furnishings/Décor: “Each Resident shall furnish their suite with their own furniture. Residents may also decorate their suite at their own expense.”

The setting is physically accessible to the individual. [42 CFR § 441.301(c)(4)(vi)(E)]

Compliance within Wisconsin State Standards and Regulations

“Each independent apartment shall be of adequate size and configuration to permit tenants to carry out, with or without assistance, all the functions necessary for independent living, including sleeping; sitting; dressing; personal hygiene; storing, preparing, serving and eating food; storing clothing and other personal possessions; doing personal correspondence and paperwork; and entertaining visitors.” ([Wis. Admin. Code § DHS 89.22](#))

Met Unmet Not Applicable

Legacy Senior Living was built in 2012 and is physically accessible.

Operational Distinction

The setting demonstrated meaningful operational distinction between the institution and the community–based setting, such as minimal administrative and financial interconnectedness.

Met Unmet Not Applicable

A six-month financial statement confirms that Legacy Senior Living is a financially separate entity from the SNF.

There is a distinction between staff for the HCBS setting and the institutional setting. Staff working in the HCBS setting receive initial and ongoing training on HCBS settings rule requirements and principles, and person-centered planning.

Met Unmet Not Applicable

Legacy Senior Living trains staff on “The Philosophy of Assisted Living”, resident rights, and the key policy and tenant privacy.

DHS Recommendation

DHS finds that [Legacy Senior Living Center Inc.](#) possesses the required home and community–based characteristics, is not isolating in nature, and overcomes the presumption of having institutional qualities.

Please note that these findings are preliminary only and must receive final approval from CMS.

In accordance with federal requirements, all compliance results will be made public by DHS. The decision will appear on the subsequent upload of facility information to DHS websites, including the [DQA Provider Search webpage](#) and the provider directories available at the [Consumer Guide to Health Care – Finding and Choosing an Assisted Living Facility webpage](#).

Ongoing Compliance

Wisconsin’s Division of Quality Assurance (DQA) will ensure through ongoing compliance reviews that [Legacy Senior Living Center Inc.](#) continues to meet the requirements of the HCBS Settings Rule. The DMS Bureau of Assisted Living (BAL) has incorporated the HCBS settings rule into its current assisted living survey process and activities. ([DQA Implementation of Home and Community-Based Services Settings Rule in Residential Assisted Living Facilities](#))

Waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are certified by the Wisconsin Department of Health Services (DHS) and work within the requirements of contracts with DHS. State licensed settings are subject to unannounced licensing visits, both in response to complaints and during regular oversight visits, by the state licensing authority, or by the entity that certified the provider if not regulated by the state. As part of these periodic licensing or certification reviews, the credentialing entity will also review the setting for continued HCBS compliance. Providers will be required to address any HCBS rule deficiencies.

When HCBS participants are resident in the setting, waiver program care managers are required to have ongoing contact, including face-to-face visits, at which time any areas of concern would be identified and addressed. Each participant in a Medicaid home and community-based waiver program is further protected through the state's long-term care ombudsman program, which has regular access to the assisted living setting. [Wisconsin's Board on Aging & Long Term Care](#): The Board on Aging and Long Term Care advocates for the interests of Wisconsin's long-term care consumers, informs those consumers of their rights and educates the public about health care systems and long-term care. The Board also operates the [Long Term Care Ombudsman](#), and [Volunteer Ombudsman](#) services

EVIDENTIARY ASSESSMENT AND SUMMARY
Home and Community-Based Services (HCBS) Settings Rule
Heightened Scrutiny Review – Community-Based Residential Facility (CBRF)

Facility Name Luther Manor		Facility Type Community-Based Residential Facility (CBRF)	
Corporate Name (if applicable) Northland Lutheran Services for the Elderly		License/Certification # 0008721	County Marinette
Facility Address 831 Pine Beach Road	City Marinette	State WI	Zip Code 54143
Primary Contact Name Darrell Lancour	Primary Contact Direct Phone (include area code) 715-732-5656	Primary Contact Email Address lancd@northlandlutheran.org	
Facility Website Address www.northlandlutheranwi.com/luther-manor-assisted-living			

Reason for Institutional Presumption

- Settings in a publicly or privately operated facility that provides inpatient institutional treatment. [Luther Home Skilled Nursing Facility](#)
- Settings on the grounds of, or adjacent to, a public institution. Name of institution: [Click or tap here to enter text.](#)
- Settings with the effect of isolating individuals from the broader community of individuals not receiving HCBS waiver services.

The Centers for Medicare and Medicaid Services’ (CMS) HCBS settings rule assumes that certain settings are not home and community-based. If a Wisconsin assisted living facility (setting) meets one of the criteria for institutional presumption as defined above, the DHS Division of Medicaid Services (DMS) conducts a heightened scrutiny review.

DMS believes that Luther Manor has overcome the institutional presumption and meets the criteria of a home and community-based services setting as summarized below.

To reinforce the extent to which Wisconsin’s licensing and certification regulations and standards align with and reinforce the HCBS settings rule, the applicable state standard or regulation is included, where applicable, with the compliance review summary below.

Facility Summary

Luther Manor, located in Marinette, Wisconsin is a Community Based Residential Facility (CBRF) licensed by the State of Wisconsin. Luther Manor is part of the Northland Lutheran Retirement Community with a rich history of care. Northland Lutheran Retirement Community began providing services over 100 years ago and in the mid 1960’s began offering skilled nursing care to the community. Over the years, independent living and assisted living residences expanded and Luther Manor opened in the late 1980’s with a capacity of 55 residents. Luther Manor serves the elderly population, including those with disabilities and those with early stage Alzheimer’s disease. Luther Manor is located in the region of Wisconsin called the Upper Peninsula and Northland’s

campus is in the city of Marinette. This region is popular as a year round tourist destination and the residents of Luther Manor have access to many beautiful local parks, recreational spaces and destinations.

The setting is integrated in and supports full access to the greater community [42 CFR § 441.301(c)(4)(i)].

The community considers the setting a part of their community and does not associate the setting with institutional services.

Met Unmet Not Applicable

- Cover letter submitted confirms, “Luther Manor is attached to Luther Home (SNF) but does function as a separate setting.” The main entrance to Luther Manor includes a chapel and on Wednesdays, the local Catholic Church conducts services for the residents at Luther Manor and community residents.
- Residents also choose to attend religious services in the Marinette community, attend events at local schools, go to restaurants in the community, etc.
- Luther Manor is located in a residential neighborhood, within 1-2 miles of the local recreational center, high school, the River Cities pool complex, and several restaurants, churches and a grocery store. Residents from Luther Manor are seen walking in the neighborhood, accessing the recreational center and dining at restaurants.
- Luther Manor has been a part of the City of Marinette for decades and residents in and outside the facility are pleased to be able to stay in their community when they need long term care and assisted living. Community members know the difference between the skilled care in the SNF and the more independent lifestyle of those living in Luther Home SNF. The main entrances for each setting are clearly different with the SNF being more institutional than the house-like entrance to the CBRF. The administrator commented that in recent weeks they have received several inquiries about available “apartments.”

Testimonials submitted from sisters of one resident at Luther Manor and son of another resident at Luther Manor:

- “Before COVID-19 hit our area, the Luther Manor did a fabulous job with getting the residents out in the community. They would offer van rides to drive around town to do various things. They would look at the local sights, get Ice cream, go for dinner, get groceries and participate in community events offered to our senior citizens. One in particular my mother enjoys attending is The Senior Citizens Day at the high school. My sister and I would also pick up my mother to go out for dinner, come and visit at our houses, go to appointments or attend activities her grandchildren are involved in.”
- “As the son and power of attorney for xxxx, a current resident of Luther Manor, it has been my experience that she has had access to transportation for outside health and medical appointments, as well as many opportunities for recreational outings, including sightseeing rides, shopping trips, and special events in the community.”

Individuals, to the extent they desire, have opportunities to participate in typical community life activities outside of the setting.

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning: The plan must be based on an assessment that addresses the person’s “capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known” and “social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs.” (Summarized from [Wis. Admin. Code § DHS 83.35](#))

Program Services: Community activities. The CBRF shall provide information and assistance to facilitate participation in personal and community activities. The CBRF shall develop, update and make available to all residents, monthly schedules and notices of community activities, including costs. ([Wis. Admin. Code § DHS 83.38\(1\)\(d\)](#))

Family and social contacts: The CBRF shall encourage and assist residents in maintaining family and social contacts. (Wis. Admin. Code § DHS 83.38(1)(e))

Met Unmet Not Applicable

The brochure and website confirms that Luther Manor is designed for assisted living with a focus on independent living. Luther Manor is part of the Northland Lutheran Retirement Community which provides “state of the art senior housing, assisted living, nursing and home health care to the twin cities of Marinette, Wisconsin and Menominee, Michigan. Social and community outings are listed in the personal services offered. Photos submitted of bulletin boards highlight activities both at Luther Manor and in the community.

Activities are individualized or include more than just setting-based group activities.

Met Unmet Not Applicable

- Luther Manor residents may come and go as they please, may have their own vehicle if they continue to drive, and can participate in community activities and activities with family and friends whenever they wish.
- The submitted information discusses independence and resident choice in a variety of activities including choosing to engage in the community with family and friends. Visiting hours are from 8 am until 9 pm and residents can have overnight visitors with prior approval.
- Person-centered plans include discussion with the resident about leisure activities, community and family contacts, and sleep/wake schedules.
- Person-centered plan submitted of Luther Manor Resident a goes to the hair salon every week, bingo games at the local senior center and shopping with her niece.

The setting supports access to community activities through its own transportation or coordination of transportation options.

Met Unmet Not Applicable

Transportation policy submitted includes:

- Residents of Luther Manor have the right to self-determination and the setting encourages residents to come and go from the facility as they choose.
- The resident may arrange transportation to offsite appointments, meetings and other activities.
- Luther Manor is available to assist residents needing transportation including instruction on accessing local transportation services and arranging for transportation services on their behalf.
- As a fee for service, Luther Manor can provide transportation services to residents.
- Transportation is available to all residents for medical and healthcare appointments.

Individuals, if they choose, have opportunities to seek employment and work in competitive integrated settings.

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning:

The plan must be based on an assessment that addresses the person’s “capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known” and “social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs.” ([WI Statewide Transition Plan](#); Summarized from [Wis. Admin. Code § DHS 83.35](#)).

From contract between DHS and specific MCOs:

V. Care Management:

C. Assessment and Member-Centered Planning Process

C.1. Comprehensive Assessment

C.1.(c) Documentation: The comprehensive assessment will include documentation by the IDT staff of:

C.1.(c)(viii) An exploration with the member of the member's preferences and opportunities for community integration including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community.

C.3. Member-Centered Planning

C.3.(c)(iv)(g) The setting in which the member resides supports integration into 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.

VII. Services

A. General Provisions

1. Comprehensive Service Delivery System

c. Serve to maintain community connections, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, and that are cost effective.

Addendum I

It is the DHS's "expectation under this contract that benefits will be fully integrated and will afford options that foster opportunities for interaction and integration into 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 while supporting each member's individual outcomes and recognizing each member's preferences."

Met Unmet Not Applicable

The Luther Manor person-centered plan form has as an area for Independent Living, Community and social preferences and if a resident chooses to continue to volunteer in his/her community, it would be noted in their plan.

Individuals are able to control their personal resources.

Compliance within Wisconsin State Standards and Regulations

Every resident in a community-based residential facility has the right to "manage the resident's own financial affairs, unless the resident delegates, in writing, such responsibility to the facility and the facility accepts the responsibility or unless the resident delegates to someone else of the resident's choosing and that person accepts the responsibility." (Statewide Transition Plan; [Wis. Stat. § 50.09](#)).

Met Unmet Not Applicable

- *Resident Funds Policy* confirms that Luther Manor will, if the resident chooses, establish an account for the resident's funds that is accessible 365 days per year.
- Sample person-centered plans document the resident's choice in financial matters- in house fund, banking in the community, representative payee, etc.

The setting is selected by the individual from among setting options including non-disability specific settings. [42 CFR § 441.301(c)(4)(ii)].

Compliance within Wisconsin State Standards and Regulations

Wisconsin has protections in place for Medicaid waiver participants which ensure they understand their choices. DHS waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are responsible for discussing choice of service settings with the waiver participant and family/guardian to locate the most suitable provider setting, including a discussion of living in a non-disability specific setting. In practice, the waiver agencies are complying with this requirement, and documenting and monitoring the choice of settings in the member-centered plan or IRIS support and service plan, as applicable.

In Wisconsin, the choice of setting requirement is not the initial responsibility of the provider setting. Rather the choice of setting takes place through the person-centered planning process at the waiver agency level. Waiver agencies are certified by DHS and work within the requirements of contracts with DHS. Through ongoing monitoring, Wisconsin will ensure that individuals maintain the right to choose where they reside.

Additionally, Wisconsin has protections in place through *Pre-Admission Consultation (PAC)*: <https://www.dhs.wisconsin.gov/adrc/pros/pac.htm>.

“Pre-admission consultation is a service provided by Aging and Disability Resource Centers (ADRCs) to individuals who are in the process of considering or making a decision about the need to move out of his or her home in order to receive the help they need to remain independent and safe. Sometimes people are unaware that there are services and supports that can be provided right in their own home, often making a move unnecessary. Those who want to move into a nursing home or assisted living facility (such as a community based residential facility or residential care apartment complex), can find it difficult to know which facility would be the best for them or a loved one.”

Met Unmet Not Applicable

- Four person-centered plans were submitted for residents supported by waiver funds and each of the plans reviewed the current living situation of the resident, choice in the setting, available resources, etc.
- As part of the *Resident Rights policy* and the program statement, each Luther Manor resident signs the person-centered plan and confirms that Luther Manor is their choice of settings.

The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and resources available for room and board. [42 CFR § 441.301(c)(4)(ii)].

Compliance within Wisconsin State Standards and Regulations

“COMPREHENSIVE INDIVIDUAL SERVICE PLAN Individual service plan review. Annually or when there is a change in a resident's needs, abilities or physical or mental condition, the individual service plan shall be reviewed and revised based on the assessment under sub. (1). All reviews of the individual service plan shall include input from the resident or legal representative, case manager, resident care staff, and other service providers as appropriate.” ([Wis. Admin. Code § DHS 83.35 \(1\)\(d\)](#))

Met Unmet Not Applicable

- Four person-centered plans submitted for waiver fund residents provided comprehensive assessments of each resident’s preferences, which included mealtime choices, mental and emotional health, independent living assessments, social participation, hobbies, etc.
- Luther Manor’s person-centered planning process includes a caseworker, legal or family representative, and the Luther Manor resident and other appropriate persons.

The setting facilitates choice regarding services and supports, and who provides them. Individuals have a choice in selecting their service providers, and are not reliant on services from the institution to the exclusion of other community-based options. Individuals can choose to receive services in the community to the same degree as individuals not receiving Medicaid HCBS. [42 CFR § 441.301(c)(4)(v)]

Compliance within Wisconsin State Standards and Regulations

Before or at the time of admission, the CBRF shall provide written information regarding services available and the charges for those services to each resident or the resident’s legal representative. This information shall include any charges for services not covered by the daily or monthly rate (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.29](#)).

Person-Centered Planning

1. “Options of services, providers, and settings, including non-disability specific settings, are offered to participants in all Wisconsin HCBS programs.”

(WI Statewide Transition Plan; Summarized from Wis. HCBS waivers, waiver-specific contracts, and policy documents.)

2. Residents have the right to “use the licensed, certified or registered provider of health care and pharmacist of the resident’s choice.” ([Wis. Stat. § 50.09](#))

Met Unmet Not Applicable

- Luther Manor residents consent to be under the care and treatment of a primary care physician of their choice.
- Luther Manor *Program Statement, I section, Outside Providers*: “If resident will be using an outside provider for services to the resident, resident must ensure that the provider is approved by the facility.”

The setting optimizes, but does 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. [42 CFR § 441.301(c)(4)(iv)]

Compliance within Wisconsin State Standards and Regulations

Rights: Licensees must protect the civil rights of residents. Residents have the right to make decision relating to care, activities, daily routines, and other aspects of life that enhance the resident’s self-reliance and support the resident’s autonomy and decision-making. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.32](#)).

Person-Centered Planning: The plan must be based on an assessment that addresses the person’s capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known, and social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts, and vocational needs. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.35](#)).

“The CBRF shall teach residents the necessary skills to achieve and maintain the resident’s highest level of functioning.” The CBRF shall provide or arrange services adequate to meet the needs of the residents including providing leisure time activities, facilitating participation in community activities, and encouraging and assisting residents in maintaining family and social contacts. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.38](#)).

Rights: Residents have the right to make decisions relating to care, activities, daily routines, and other aspects of life that enhance the resident’s self-reliance and support the resident’s autonomy and decision making, and have the least restrictive conditions necessary to achieve the purposes of the resident’s admission. The CBRF may not impose a curfew, rule, or other restriction on a resident’s freedom of choice. (Statewide Transition Plan; Summarized from Wis. Admin. Code § DHS 83.32).

Met Unmet Not Applicable

- The *Resident Rights* document for Luther Manor, assures that residents “make decisions relating to care, activities, daily routines and other aspects of life which enhance the resident’s self-reliance and support the resident’s autonomy and decision making.” Residents participate in the planning of care and treatment and have the right to refuse care and treatment.
- *Resident Rights policy, Exhibit E, Section K, Self-determination*: “Make decisions relating to care, activities, daily routines and other aspects of live which enhance the resident’s self-reliance and support the resident’s autonomy and decision making.”
- Residents may entertain visitors at Luther Manor at any time and may have overnight visitors.

Individuals have the freedom and support to control their own schedules and activities. [42 CFR § 441.301(c)(4)(vi)(C)]

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning: The plan must be based on an assessment that addresses the person’s “capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known” and “social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs.” (Statewide Transition Plan, pg. 72; Summarized from Wis. Admin. Code § DHS 83.35) Rights: Licensees must protect the civil rights of residents. Residents have the right to make decision relating to care, activities, daily routines, and other

aspects of life that enhance the resident's self-reliance and support the resident's autonomy and decision-making. (Summarized from Wis. Admin. Code § DHS 83.32)

Met Unmet Not Applicable

- Four person-centered plans submitted for waiver participants confirm that each of the residents have an individualized plan that supports their self-reliance, independence and preferences.
- One of the resident's plan highlighted attendance each day at the Bingo game, watching documentaries on TV and going on outings with his daughter.

The setting ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint, [42 CFR § 441.301(c)(4)(iii)].

Compliance within Wisconsin State Standards and Regulations

Rights: Residents have the right to be "treated with courtesy, respect and dignity by all employees of the facility and other providers of health care and pharmacists with whom the resident comes in contact." ([Statewide Transition Plan](#), pg. 72; Summarized from [Wis. Stat. § 50.09](#)).

Residents must be provided with "physical and emotional privacy in treatment, living arrangements, and in caring for personal needs" including, privacy for visits by spouse or domestic partner, or to share a room with a spouse or domestic partner if both are residents for the same facility; privacy concerning health care; confidentiality of health and personal records; and the right to approve or refuse their release to any individual outside the facility. (Statewide Transition Plan, pg. 72; Summarized from Wis. Stat. § 50.09).

"Any form of coercion to discourage or prevent a resident or the resident's legal representative from exercising any of the rights under this subchapter is prohibited. Any form of retaliation against a resident or the resident's legal representative for exercising any of the rights in this subchapter, or against an employee or any other person who assists a resident or the resident's legal representative in the exercise of any of the resident rights in this subchapter, is prohibited." (Statewide Transition Plan, pg. 72; Wis. [Admin. Code § DHS 83.32](#)).

In addition, each resident shall have all of the following rights: freedom from mistreatment; freedom from seclusion; freedom from chemical restraint; and freedom from physical restraints, except upon prior review and approval by DHS upon written authorization from the resident's primary physician or advanced practice nurse prescriber. DHS may place conditions on the use of a restraint to protect the health, safety, welfare, and rights of the resident. (Statewide Transition Plan; Summarized from Wis. Admin. Code § DHS 83.32).

Met Unmet Not Applicable

- Privacy, dignity and respect, grievance procedure, freedom from coercion, seclusion, etc. are addressed in the *Resident Rights* document.
- *Resident Unit Key policy* submitted which states that all residents will be issued a key and that there is a privacy policy in place that requires staff to ask permission to enter the living unit from the resident.

Individuals are able to have visitors of their choosing at any time. [42 CFR § 441.301(c)(4)(vi)(D)]

Compliance within Wisconsin State Standards and Regulations

Rights: Residents have the right to private and unrestricted communications with their family, physician or other medical provider, attorney, and any other person, unless documented as medically contraindicated. The right to private and unrestricted communications includes the right to reasonable access to a telephone for private communications; and the opportunity for private visits. (WI Statewide Transition Plan; Summarized from Wis. Stat. § 50.09).

Met Unmet Not Applicable

Visitors to Luther Manor are allowed at any time. Overnight visitors are allowed by request to the facility. Generally, visitors are allowed between 8am to 9pm.

Individuals have access to food at any time.

Compliance within Wisconsin State Standards and Regulations

The CBRF must provide each resident with palatable food that meets the recommended dietary allowance based on current guidelines, including at least three meals a day and a snack in the evening, or more often based on the resident's dietary needs. If a resident is away during meal time, the CBRF shall offer food to the resident on the resident's return. The CBRF shall make reasonable adjustments to the menu for individual resident likes, habits, customs, condition, and appetites. (Summarized from Wis. Admin. Code § DHS 83.41).

Met Unmet Not Applicable

- All meals and snacks are included in the monthly rent. The main kitchen, which is fully equipped and stocked, is open and accessible 24 hours per day.
- *Program Statement, Section 2, Services, ii Food Service:* “Unless inconsistent with the resident’s person-centered plan, or short-term medical needs, facility will provide each resident with three(3) meals a day served in the dining room and snacks are available 24 hours each day.”

The living unit is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services:

- The individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the applicable landlord/tenant laws.
- The State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law. [42 CFR § 441.301(c)(4)(vi)(A)]

Compliance within Wisconsin State Standards and Regulations

“Each resident shall have a written agreement that is signed by and provided to each party. The agreement includes a description of the space to be provided to the resident, the agreed upon rate, a statement of the resident's rights and the terms of termination, including timeframes. The agreement is updated annually.” ([WI Statewide Transition Plan](#), pg. 77; [Wis. Admin. Code § DHS 83.29](#)).

The agreement must include terms for resident notification to the CBRF of voluntary discharge, and reasons and notice requirements for involuntary discharge or transfer, including transfers within the CBRF. (Summarized from [Wis. Admin. Code § DHS 83.31](#)).

Met Unmet Not Applicable

The Northland Lutheran Services CBRF *Residency Agreement* outlines the following consideration for each resident:

- Accommodations and Amenities including payment, room and board rates, etc.
- Term and Termination procedure
- Term of CBRF agreement
- Termination considerations by residents including written notice, transfers, change in unit, etc.
- Statement of resident's rights
- In accordance with Wis.Admin.Code & DHS 83.29

Overcoming Institutional Presumption

The setting demonstrated a meaningful physical distinction between the HCBS setting and the institutional setting, including separate entrances and signage, physical divisions, and differences in décor.

Met Unmet Not Applicable

- Photos submitted show common areas, lounges that are distinct from the SNF in terms of color, décor and furnishings. Luther Manor's common areas and residents rooms are homey and reflect a non-institutional setting.

- Photo submitted shows the entrance from the main entrance with separate signage for Luther Manor and Luther Manor is on the other side of the campus away from the SNF.

Each individual has privacy in their sleeping or living unit.

Compliance within Wisconsin State Standards and Regulations

Residents must be provided with “physical and emotional privacy in treatment, living arrangements, and in caring for personal needs” including, privacy for visits by spouse or domestic partner, or to share a room with a spouse or domestic partner if both are residents for the same facility; privacy concerning health care; confidentiality of health and personal records; and the right to approve or refuse their release to any individual outside the facility. (Statewide Transition Plan; Summarized from Wis. Stat. § 50.09).

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance surveyors that the setting (DQA, [F-02138](#), HCBS Compliance Review):

1. Provides lockable key entry doors on all resident rooms, and individual keys to all residents.
2. Has a policy ensuring that staff uses facility keys to enter a resident’s room only under circumstances agreed upon with the resident.

Met Unmet Not Applicable

Each Luther Manor residents has an individual key to their room. The doors are lockable/unlockable by key on the outside, lockable by push button on the inside, and unlockable from inside by pulling down on the handle to open the door. Staff has a master key. Policy requires staff to knock and unlock/enter door only when necessary, such as when client rings for assistance, cleaning, safety issues or emergencies.

Individual living units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.

Compliance within Wisconsin State Standards and Regulations

Locks on living unit doors allow the resident to exercise his or her right to privacy and personal choice. Staff in each residential setting should always knock and receive permission prior to entering a resident’s living space. DHS expects the residential setting to have a policy in place to ensure that staff always knock and receive permission prior to entering a resident’s room or personal living space to respect residents’ rights to privacy. Please refer to DHS’ [Frequently Asked Questions \(FAQs\) about Door Locks in Adult Long-Term Care Residential Settings](#) for additional lock-related information.

Met Unmet Not Applicable

Each Luther Manor residents has an individual key to their room. The doors are lockable/unlockable by key on the outside, lockable by push button on the inside, and unlockable from inside by pulling down on the handle to open the door. Staff has a master key. Policy requires staff to knock and unlock/enter door only when necessary, such as when client rings for assistance, cleaning, safety issues or emergencies.

Individuals sharing units have a choice of roommates in that setting.

Compliance within Wisconsin State Standards and Regulations

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance surveyors that residents have choice of roommates (DQA, [F-02138](#), HCBS Compliance Review):

Person-Centered Planning: Family Care Provider Network, I. Access to Providers: “For residential care facilities, evidence of adequate capacity shall include identification of the availability of residential providers offering private rooms, and a process for moving an individual to a private room when one becomes available that is consistent with the member’s preferences.” ([DHS-MCO Contract, Article VIII, I\(6\)d](#))

Met Unmet Not Applicable

Currently all tenants have private rooms at Luther Manor. A couple or others may share a unit with the roommate of their choice. There is no distinction of shared units for tenants supported with waiver funding.

Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement. [42 CFR § 441.301(c)(4)(vi)(B)(1-3)]

Compliance within Wisconsin State Standards and Regulations

Met Unmet Not Applicable

As part of the CBRF residency agreement, Section 1, Accommodations and Amenities, “resident may furnish the unit with his or her furniture. Resident is free to use special appliances and equipment approved by Luther Manor.”

The setting is physically accessible to the individual. [42 CFR § 441.301(c)(4)(vi)(E)]

Compliance within Wisconsin State Standards and Regulations

Met Unmet Not Applicable

Luther Manor is physically accessible to each resident. Living units feature adaptable railings and hand guards.

Operational Distinction

The setting demonstrated meaningful operational distinction between the institution and the community-based setting, such as minimal administrative and financial interconnectedness.

Met Unmet Not Applicable

- Luther Manor and Luther Home are facilities owned by Northland Lutheran Services. They share a board of directors but their respective operational staff are distinct from each other.
- There is a separate annual budget, profit/loss statement, and operational financials that were submitted. All financial allocations are separate line items between the skilled nursing facility and the CBRF.
- Luther Manor employs its own administrative director.

There is a distinction between staff for the HCBS setting and the institutional setting. Staff working in the HCBS setting receive initial and ongoing training on HCBS settings rule requirements and principles, and person-centered planning.

Met Unmet Not Applicable

- Training documents and organizational chart submitted that confirm that Luther Manor does not share staff with Luther Home. Luther Manor has its own residence director who is responsible for the day-to-day operations at the CBRF.
- Orientation training submitted includes training by HR on general policies and employee information. The CBRF administrator and the resident director train the staff on CBRF rights, HCBS settings rule, etc.
- CBRF staff are trained in person-centered planning and resident rights.

DHS Recommendation

DHS finds that **Luther Manor** possesses the required home and community-based characteristics, is not isolating in nature, and overcomes the presumption of having institutional qualities.

Please note that these findings are preliminary only and must receive final approval from CMS.

In accordance with federal requirements, all compliance results will be made public by DHS. The decision will appear on the subsequent upload of facility information to DHS websites, including the [DQA Provider Search webpage](#) and the provider directories available at the [Consumer Guide to Health Care – Finding and Choosing an Assisted Living Facility webpage](#).

Ongoing Compliance

Wisconsin's Division of Quality Assurance (DQA) will ensure through ongoing compliance reviews that [Luther Manor](#) continues to meet the requirements of the HCBS Settings Rule. The DMS Bureau of Assisted Living (BAL) has incorporated the HCBS settings rule into its current assisted living survey process and activities. ([DQA Implementation of Home and Community-Based Services Settings Rule in Residential Assisted Living Facilities](#))

Waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are certified by the Wisconsin Department of Health Services (DHS) and work within the requirements of contracts with DHS. State licensed settings are subject to unannounced licensing visits, both in response to complaints and during regular oversight visits, by the state licensing authority, or by the entity that certified the provider if not regulated by the state. As part of these periodic licensing or certification reviews, the credentialing entity will also review the setting for continued HCBS compliance. Providers will be required to address any HCBS rule deficiencies.

When HCBS participants are resident in the setting, waiver program care managers are required to have ongoing contact, including face-to-face visits, at which time any areas of concern would be identified and addressed. Each participant in a Medicaid home and community-based waiver program is further protected through the state's long-term care ombudsman program, which has regular access to the assisted living setting. [Wisconsin's Board on Aging & Long Term Care](#): The Board on Aging and Long Term Care advocates for the interests of Wisconsin's long-term care consumers, informs those consumers of their rights and educates the public about health care systems and long-term care. The Board also operates the [Long Term Care Ombudsman](#), and [Volunteer Ombudsman](#) services

EVIDENTIARY ASSESSMENT AND SUMMARY
Home and Community-Based Services (HCBS) Settings Rule
Heightened Scrutiny Review – Community-Based Residential Facility (CBRF)

Facility Name Manawa Assisted Living		Facility Type Community-Based Residential Facility (CBRF)	
Corporate Name (if applicable) Manawa Community Nursing Center Inc		License/Certification # 0014496	County Waupaca
Facility Address 401 East 4 th St.	City Manawa	State WI	Zip Code 54949
Primary Contact Name Philip Castleberg or Beverley Betker, DNS	Primary Contact Direct Phone (include area code) 920-596-256	Primary Contact Email Address dn@wolfnet.net	
Facility Website Address https://manawacommunitylivingcenter.net/Una or https://m.facebook.com/manawacommunitylivingcenter			

Reason for Institutional Presumption

- Settings in a publicly or privately operated facility that provides inpatient institutional treatment. Manawa Community Nursing Center
- Settings on the grounds of, or adjacent to, a public institution. Name of institution: [Click or tap here to enter text.](#)
- Settings with the effect of isolating individuals from the broader community of individuals not receiving HCBS waiver services.

The Centers for Medicare and Medicaid Services’ (CMS) HCBS settings rule assumes that certain settings are not home and community-based. If a Wisconsin assisted living facility (setting) meets one of the criteria for institutional presumption as defined above, the DHS Division of Medicaid Services (DMS) conducts a heightened scrutiny review.

DMS believes that Manawa Assisted Living has overcome the institutional presumption and meets the criteria of a home and community-based services setting as summarized below.

To reinforce the extent to which Wisconsin’s licensing and certification regulations and standards align with and reinforce the HCBS settings rule, the applicable state standard or regulation is included, where applicable, with the compliance review summary below.

Facility Summary

Located in central Wisconsin, the city of Manawa has a population of 1,300, in a rural county of 51,000. About 50 miles away is the Fox cities area and a bit north, Green Bay, which provides cultural and sports activities, colleges, universities and tech schools, and boasts the largest shopping mall in the state. The county is a manufacturing area, farming area, and recreational area with 109 lakes and numerous rivers and creeks. All season recreation includes snowmobiling and ATV riding, fishing, hunting, and boating. The Manawa Lions sponsored Mid-Western Rodeo over July 4th weekend is voted the Great

Lakes Circuit best medium rodeo, attracting over 15,000 people annually to Manawa and featuring everything Wisconsin such as free dances and vendors, a walk/run event and a parade, a chicken BBQ and fireworks.

Manawa Assisted Living is located on one of the busiest streets in town, in a residential area just across from the schools. Originally built as a nursing home, a remodel was done in 2014 to make one wing an assisted living with large suites and washer and dryer hook-ups in each of the 10 units and is referred to as “bed and breakfast like.” The 25-bed Manawa Community Nursing Center and Manawa Assisted Living provide a mini-continuum of care for this small family-oriented community and a campus where residents can “age in place.” Residents can receive the long-term care they need without having to leave home.” (Of 8 current residents, 7 are family care. 1/2021)

The setting is integrated in and supports full access to the greater community [42 CFR § 441.301(c)(4)(i)].

The community considers the setting a part of their community and does not associate the setting with institutional services.

Met Unmet Not Applicable

The city of Manawa has all the benefits of a city, including local shopping, a library, outdoor sport facilities, four churches and a parochial school. Manawa Assisted Living residents can come and go as they please and continue to participate in community activities as they wish. They keep their own medical providers; the city of Waupaca, which has a hospital and is part of a regional hospital and clinic provider, is only 15 miles away. A YouTube testimonial shows a spouse describing her daily visits with her husband and knowing everyone who takes care of him “like family.” Residents can walk or take a scooter to the downtown area, or leave with family and friends, or on their own if they still drive, to go wherever they choose to go.

Individuals, to the extent they desire, have opportunities to participate in typical community life activities outside of the setting.

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning: The plan must be based on an assessment that addresses the person’s “capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known” and “social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs.” (Summarized from [Wis. Admin. Code § DHS 83.35](#))

Program Services: Community activities. The CBRF shall provide information and assistance to facilitate participation in personal and community activities. The CBRF shall develop, update and make available to all residents, monthly schedules and notices of community activities, including costs. ([Wis. Admin. Code § DHS 83.38\(1\)\(d\)](#))

Family and social contacts: The CBRF shall encourage and assist residents in maintaining family and social contacts. (Wis. Admin. Code § DHS 83.38(1)(e))

Met Unmet Not Applicable

- Manawa Assisted Living conducts an activity assessment of each resident upon admission and will “provide and promote planned social, educational, and recreational programs to meet individual needs.”
- In section XV agreement acknowledgment: “You understand and agree:
 1. MCLC will encourage you to participate in community, leisure, and social activities to maintain an appropriate level of independence in activities of daily living.”

Activities are individualized or include more than just setting-based group activities.

Met Unmet Not Applicable

Manawa Assisted Living residents may come and go as they please and participate in community activities as they wish. In addition to an ISP, each resident will have an activity assessment and be encouraged to participate in community, leisure, and social activities as they choose.

The setting supports access to community activities through its own transportation or coordination of transportation options.

Met Unmet Not Applicable

Manawa Assisted Living staff assist in arranging transportation for medical and social needs at the resident's cost, as stated in the services and accommodations document. The Waupaca County ADRC operates a volunteer driver transportation program for medical needs, and a medical transportation service is available for medical transport to appointments as well as for outings. Most often, if residents no longer drive, family and friends assist with transportation. A list of transportation options and contact information is provided to all residents.

Individuals, if they choose, have opportunities to seek employment and work in competitive integrated settings.

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning:

The plan must be based on an assessment that addresses the person's "capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known" and "social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs." ([WI Statewide Transition Plan](#); Summarized from [Wis. Admin. Code § DHS 83.35](#)).

From contract between DHS and specific MCOs:

V. Care Management:

C. Assessment and Member-Centered Planning Process

C.1. Comprehensive Assessment

C.1.(c) Documentation: The comprehensive assessment will include documentation by the IDT staff of:

C.1.(c)(viii) An exploration with the member of the member's preferences and opportunities for community integration including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community.

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C.3.(c)(iv)(g) The setting in which the member resides supports integration into 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.

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1. Comprehensive Service Delivery System

c. Serve to maintain community connections, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, and that are cost effective.

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It is the DHS's "expectation under this contract that benefits will be fully integrated and will afford options that foster opportunities for interaction and integration into 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 while supporting each member's individual outcomes and recognizing each member's preferences."

Met Unmet Not Applicable

- Manawa Assisted Living residents who are supported with waiver funding participate in ongoing and regularly scheduled member-centered planning (MCP) processes, which includes a section for discussing employment and education. If a resident’s outcome or goal is to work, they are free to come and go as they wish, including to work.
- The ISP format for Manawa Assisted Living includes several sections related to individual choice, autonomy and independence.
- Personal Experience Outcome – “I want to visit with _____ as she is my longtime friend.”
- Vocation – “... is not interested in pursuing employment options.”
- Social Community Integration “...member independently accesses the community according to member’s current lifestyle and preferences.”
- Living Environment – “...is satisfied with her current living environment” and adds that she appreciates “...The opportunities to adhere to the following religious practices: Lent, communion, confessions, Advent, mass, praying the rosary.”

Individuals are able to control their personal resources.

Compliance within Wisconsin State Standards and Regulations

Every resident in a community-based residential facility has the right to “manage the resident’s own financial affairs, unless the resident delegates, in writing, such responsibility to the facility and the facility accepts the responsibility or unless the resident delegates to someone else of the resident’s choosing and that person accepts the responsibility.” (Statewide Transition Plan; [Wis. Stat. § 50.09](#)).

Met Unmet Not Applicable

Manawa Assisted Living residents have the option to have a resident trust fund as outlined in the facility policy. Residents have access to their funds 24 hours/day via a petty cash box in the nurse’s station or with the business office during business hours. Residents may also utilize community banking services wherever they wish. The Manawa Assisted Living *Patient Trust Account Agreement* allows residents to “choose not to have a patient trust account and choose not to authorize the facility to hold, safeguard, and account for my personal funds on my behalf in accordance with the policy on my behalf.” Residents have a key to their own room and can choose to safeguard their funds by locking their room.

The setting is selected by the individual from among setting options including non-disability specific settings. [42 CFR § 441.301(c)(4)(ii)].

Compliance within Wisconsin State Standards and Regulations

Wisconsin has protections in place for Medicaid waiver participants which ensure they understand their choices. DHS waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are responsible for discussing choice of service settings with the waiver participant and family/guardian to locate the most suitable provider setting, including a discussion of living in a non-disability specific setting. In practice, the waiver agencies are complying with this requirement, and documenting and monitoring the choice of settings in the member-centered plan or IRIS support and service plan, as applicable.

In Wisconsin, the choice of setting requirement is not the initial responsibility of the provider setting. Rather the choice of setting takes place through the person-centered planning process at the waiver agency level. Waiver agencies are certified by DHS and work within the requirements of contracts with DHS. Through ongoing monitoring, Wisconsin will ensure that individuals maintain the right to choose where they reside.

Additionally, Wisconsin has protections in place through *Pre-Admission Consultation (PAC)*: <https://www.dhs.wisconsin.gov/adrc/pros/pac.htm>. “Pre-admission consultation is a service provided by Aging and Disability Resource Centers (ADRCs) to individuals who are in the process of considering or making a decision about the need to move out of his or her home in order to receive the help they need to remain independent and safe. Sometimes people are unaware that there are services and supports that can be provided right in their own home, often making a move unnecessary. Those who want to move into a nursing home or assisted living facility (such as a community based residential facility or residential care apartment complex), can find it difficult to know which facility would be the best for them or a loved one.”

Met Unmet Not Applicable

Manawa Assisted Living residents who are supported with waiver funding participate in the MCP process, which includes discussion of where they want to live. The facility ISP format includes several sections related to individual choice, autonomy and independence including. Many residents choose to live at Manawa Assisted Living before they meet criteria for waiver-supported services.

The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and resources available for room and board. [42 CFR § 441.301(c)(4)(ii)].

Compliance within Wisconsin State Standards and Regulations

“COMPREHENSIVE INDIVIDUAL SERVICE PLAN Individual service plan review. Annually or when there is a change in a resident's needs, abilities or physical or mental condition, the individual service plan shall be reviewed and revised based on the assessment under sub. (1). All reviews of the individual service plan shall include input from the resident or legal representative, case manager, resident care staff, and other service providers as appropriate.” ([Wis. Admin. Code § DHS 83.35 \(1\)\(d\)](#))

Met Unmet Not Applicable

Manawa Assisted Living residents who are supported with waiver funding participate in the MCP process which includes discussion of where they want to live. The facility ISP format includes several sections related to individual choice, autonomy and independence. Many residents choose to live at Manawa Assisted Living before they meet criteria for waiver supported services.

The setting facilitates choice regarding services and supports, and who provides them. Individuals have a choice in selecting their service providers, and are not reliant on services from the institution to the exclusion of other community-based options. Individuals can choose to receive services in the community to the same degree as individuals not receiving Medicaid HCBS. [42 CFR § 441.301(c)(4)(v)]

Compliance within Wisconsin State Standards and Regulations

Before or at the time of admission, the CBRF shall provide written information regarding services available and the charges for those services to each resident or the resident's legal representative. This information shall include any charges for services not covered by the daily or monthly rate (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.29](#)).

Person-Centered Planning

- “Options of services, providers, and settings, including non-disability specific settings, are offered to participants in all Wisconsin HCBS programs.” (WI Statewide Transition Plan; Summarized from Wis. HCBS waivers, waiver-specific contracts, and policy documents.)
- Residents have the right to “use the licensed, certified or registered provider of health care and pharmacist of the resident's choice.” ([Wis. Stat. § 50.09](#))

Met Unmet Not Applicable

Resident Rights Section 8) Health Care: Residents “...choose a personal physician and other health care providers and pharmacist of... choice” and can choose other providers in their setting “with prior written consent.”

The setting optimizes, but does 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. [42 CFR § 441.301(c)(4)(iv)]

Compliance within Wisconsin State Standards and Regulations

Rights: Licensees must protect the civil rights of residents. Residents have the right to make decision relating to care, activities, daily routines, and other aspects of life that enhance the resident's self-reliance and support the resident's autonomy and decision-making. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.32](#)).

Person-Centered Planning: The plan must be based on an assessment that addresses the person's capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known, and social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts, and vocational needs. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.35](#)).

"The CBRF shall teach residents the necessary skills to achieve and maintain the resident's highest level of functioning." The CBRF shall provide or arrange services adequate to meet the needs of the residents including providing leisure time activities, facilitating participation in community activities, and encouraging and assisting residents in maintaining family and social contacts. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.38](#)).

Rights: Residents have the right to make decisions relating to care, activities, daily routines, and other aspects of life that enhance the resident's self-reliance and support the resident's autonomy and decision making, and have the least restrictive conditions necessary to achieve the purposes of the resident's admission. The CBRF may not impose a curfew, rule, or other restriction on a resident's freedom of choice. (Statewide Transition Plan; Summarized from Wis. Admin. Code § DHS 83.32).

Met Unmet Not Applicable

The ISP format for Manawa Assisted Living includes several sections related to individual choice, autonomy and independence. Some examples are:

- Personal Experience Outcome "I want to visit with _____ as she is my longtime friend."
- Vocation "...Member is not interested in pursuing employment options."
- Social Community Integration "...member independently accesses the community according to member's current lifestyle and preferences."
- Living Environment "...is satisfied with his current living environment." "...provide me with opportunities to adhere to the following religious practices: Lent, communion, confessions, Advent, mass, praying the rosary."
- Resident rights 1) Basic Rights – Provides for self-determination.
- Admission agreement – Provides for residents to choose their schedule, enjoy their own furnishings and personal effects, have visitors of their choice at any time, obtain the medical care and services of their choice, and leave the facility at any time for recreation, appointments and other activities as they wish. If a resident's outcome or goals is to work, they are free to come and go as they wish, including to work.

Individuals have the freedom and support to control their own schedules and activities. [42 CFR § 441.301(c)(4)(vi)(C)]

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning: The plan must be based on an assessment that addresses the person's "capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known" and "social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs." (Statewide Transition Plan, pg. 72; Summarized from Wis. Admin. Code § DHS 83.35) Rights: Licensees must protect the civil rights of residents. Residents have the right to make decision relating to care, activities, daily routines, and other aspects of life that enhance the resident's self-reliance and support the resident's autonomy and decision-making. (Summarized from Wis. Admin. Code § DHS 83.32)

Met Unmet Not Applicable

Resident Rights, admission agreement, and other policies assure that Manawa Assisted Living residents choose their own schedules and activities.

The setting ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint, [42 CFR § 441.301(c)(4)(iii)].

Compliance within Wisconsin State Standards and Regulations

Rights: Residents have the right to be "treated with courtesy, respect and dignity by all employees of the facility and other providers of health care and pharmacists with whom the resident comes in contact." ([Statewide Transition Plan](#), pg. 72; Summarized from [Wis. Stat. § 50.09](#)).

Residents must be provided with “physical and emotional privacy in treatment, living arrangements, and in caring for personal needs” including, privacy for visits by spouse or domestic partner, or to share a room with a spouse or domestic partner if both are residents for the same facility; privacy concerning health care; confidentiality of health and personal records; and the right to approve or refuse their release to any individual outside the facility. (Statewide Transition Plan, pg. 72; Summarized from Wis. Stat. § 50.09).

“Any form of coercion to discourage or prevent a resident or the resident’s legal representative from exercising any of the rights under this subchapter is prohibited. Any form of retaliation against a resident or the resident’s legal representative for exercising any of the rights in this subchapter, or against an employee or any other person who assists a resident or the resident’s legal representative in the exercise of any of the resident rights in this subchapter, is prohibited.” (Statewide Transition Plan, pg. 72; Wis. [Admin. Code § DHS 83.32](#)).

In addition, each resident shall have all of the following rights: freedom from mistreatment; freedom from seclusion; freedom from chemical restraint; and freedom from physical restraints, except upon prior review and approval by DHS upon written authorization from the resident’s primary physician or advanced practice nurse prescriber. DHS may place conditions on the use of a restraint to protect the health, safety, welfare, and rights of the resident. (Statewide Transition Plan; Summarized from Wis. Admin. Code § DHS 83.32).

Met Unmet Not Applicable

The Settings Policy, Practices and Procedures Manual documents in Resident Rights #16 Privacy “physical and emotional privacy... with regard to accommodations... visits and meetings of family groups” and others as desired. Manawa Assisted Living strives to provide a homelike atmosphere where residents are encouraged to use their own personal belongings to the extent possible. All resident units can be locked from the inside and the outside. Residents have their own key and the facility’s door locks policy specifies that staff knock and enter only when invited unless there is an emergency.

Individuals are able to have visitors of their choosing at any time. [42 CFR § 441.301(c)(4)(vi)(D)]

Compliance within Wisconsin State Standards and Regulations

Rights: Residents have the right to private and unrestricted communications with their family, physician or other medical provider, attorney, and any other person, unless documented as medically contraindicated. The right to private and unrestricted communications includes the right to reasonable access to a telephone for private communications; and the opportunity for private visits. (WI Statewide Transition Plan; Summarized from Wis. Stat. § 50.09).

Met Unmet Not Applicable

Met Unmet Not Applicable

The Accommodations summary and the Admission Agreement state that there are no set visiting hours. Manawa Assisted Living residents have visitors whenever they wish. Overnight guests must first make arrangements with the administrator.

Individuals have access to food at any time.

Compliance within Wisconsin State Standards and Regulations

The CBRF must provide each resident with palatable food that meets the recommended dietary allowance based on current guidelines, including at least three meals a day and a snack in the evening, or more often based on the resident’s dietary needs. If a resident is away during meal time, the CBRF shall offer food to the resident on the resident’s return. The CBRF shall make reasonable adjustments to the menu for individual resident likes, habits, customs, condition, and appetites. (Summarized from Wis. Admin. Code § DHS 83.41).

Met Unmet Not Applicable

The Manawa Assisted Living admission agreement states “Daily Meals- Manawa CBRF will provide three meals daily. Snacks are served to residents twice a day but are available 24 hours a day.” Residents may have small refrigerators in their unit.

The living unit is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services:

- The individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the applicable landlord/tenant laws.
- The State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law. [42 CFR § 441.301(c)(4)(vi)(A)]

Compliance within Wisconsin State Standards and Regulations

“Each resident shall have a written agreement that is signed by and provided to each party. The agreement includes a description of the space to be provided to the resident, the agreed upon rate, a statement of the resident’s rights and the terms of termination, including timeframes. The agreement is updated annually.” ([WI Statewide Transition Plan](#), pg. 77; [Wis. Admin. Code § DHS 83.29](#)).

The agreement must include terms for resident notification to the CBRF of voluntary discharge, and reasons and notice requirements for involuntary discharge or transfer, including transfers within the CBRF. (Summarized from [Wis. Admin. Code § DHS 83.31](#)).

Met Unmet Not Applicable

The Manawa Assisted Living admission agreement states that the facility will provide the Resident or Residents Legal Representative thirty (30) days written notice of any changes in service, and a 30-day notice before any changes go in to effect such as prior to a room transfer, price or rate changes. Refunds are prorated if resident gives 30-day notice prior to transfer or discharge, unless it is due to change in condition as specified in the admission agreement. The facility will give a 30-day notice for termination or discharge as stated in the CBRF admission agreement.

Overcoming Institutional Presumption

The setting demonstrated a meaningful physical distinction between the HCBS setting and the institutional setting, including separate entrances and signage, physical divisions, and differences in décor.

Met Unmet Not Applicable

Manawa Assisted Living and Manawa Community Nursing Center share a main entrance and lobby. There is separate signage showing the entry to the SNF and separate inside entry to the CBRF. At the time of the remodel for the CBRF, distinction was planned to include a different means of unit entry to CBRF rooms. CBRF residents have a shadow box outside their room to display favorite seasonal, family, or personal mementos. Residents use their own furniture and decorate their unit however they wish. The hallway décor for the CBRF is different than the SNF. Inside the CBRF units are hookups for air conditioning, washer and dryer hookups, and built in closets and desks. At the end of the CBRF wing is a large shared spaced with comfortable seating, many windows and a fireplace. In a video description, the administrator/owner said the remodel plan was for the facility to be “bed and breakfast like.”

Each individual has privacy in their sleeping or living unit.

Compliance within Wisconsin State Standards and Regulations

Residents must be provided with “physical and emotional privacy in treatment, living arrangements, and in caring for personal needs” including, privacy for visits by spouse or domestic partner, or to share a room with a spouse or domestic partner if both are residents for the same facility; privacy concerning health care; confidentiality of health and personal records; and the right to approve or refuse their release to any individual outside the facility. (Statewide Transition Plan; Summarized from Wis. Stat. § 50.09).

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance surveyors that the setting (DQA, [F-02138](#), HCBS Compliance Review):

- Provides lockable key entry doors on all resident rooms, and individual keys to all residents.

- Has a policy ensuring that staff uses facility keys to enter a resident's room only under circumstances agreed upon with the resident.

Met Unmet Not Applicable

Manawa Assisted Living Center units are single units with lockable doors. The lock policy states that staff must knock and receive acknowledgement prior to entering a resident room. In the event that the room is locked and the resident is not responding, a second attempt must be made to knock and await response. Upon admission residents will determine in their individualized service plan under which circumstances they wish staff to enter their living space without acknowledgement.

Individual living units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.

Compliance within Wisconsin State Standards and Regulations

Locks on living unit doors allow the resident to exercise his or her right to privacy and personal choice. Staff in each residential setting should always knock and receive permission prior to entering a resident's living space. DHS expects the residential setting to have a policy in place to ensure that staff always knock and receive permission prior to entering a resident's room or personal living space to respect residents' rights to privacy. Please refer to DHS' [Frequently Asked Questions \(FAQs\) about Door Locks in Adult Long-Term Care Residential Settings](#) for additional lock-related information.

Met Unmet Not Applicable

The Manawa Assisted Living Admission Agreement states that all residents will have a key to their unit. The *Door Lock Policy* states "Staff in each residential setting should always knock and receive permission prior to entering a resident's living space." And "Nursing staff and management will have access to one master key. A second master key will be kept in the business office in the event of an emergency or the loss of the original staff key. All staff must knock and receive acknowledgement prior to entering a resident room. In the event that the room is locked and the resident is not responding, a second attempt must be made to knock and await response. Staff will be trained upon hire regarding staff key use and resident rights."

Individuals sharing units have a choice of roommates in that setting.

Compliance within Wisconsin State Standards and Regulations

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance surveyors that residents have choice of roommates (DQA, [F-02138](#), HCBS Compliance Review):

Person-Centered Planning: Family Care Provider Network, I. Access to Providers: "For residential care facilities, evidence of adequate capacity shall include identification of the availability of residential providers offering private rooms, and a process for moving an individual to a private room when one becomes available that is consistent with the member's preferences." ([DHS-MCO Contract, Article VIII, I\(6\)d](#))

Met Unmet Not Applicable

The living units at Manawa Assisted Living are single units.

Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement. [42 CFR § 441.301(c)(4)(vi)(B)(1-3)]

Compliance within Wisconsin State Standards and Regulations

Met Unmet Not Applicable

Manawa Assisted Living residents may use their own furniture, possessions and decorations in their rooms. The *Resident Rights* document #28 encourages a homelike atmosphere and "Right... to use his or her personal belongings to the extent possible."

The setting is physically accessible to the individual. [42 CFR § 441.301(c)(4)(vi)(E)]

Compliance within Wisconsin State Standards and Regulations

Met Unmet Not Applicable

The Manawa Assisted Living was fully remodeled in 2014 and is physically accessible.

Operational Distinction

The setting demonstrated meaningful operational distinction between the institution and the community-based setting, such as minimal administrative and financial interconnectedness.

Met Unmet Not Applicable

The Manawa Community Living Center has separate admission agreements for the CBRF and the SNF. Income and expenses for the CBRF are separate from the SNF, as evidenced in the *Profit and Loss Statement*.

There is a distinction between staff for the HCBS setting and the institutional setting. Staff working in the HCBS setting receive initial and ongoing training on HCBS settings rule requirements and principles, and person-centered planning.

Met Unmet Not Applicable

In Wisconsin, CBRFs are regulated by the DHS Division of Quality Assurance. The regulations for CBRFs are outlined in [Chapter DHS 83](#). Manawa Assisted Living has an employee training and development policy. Staff who work in the CBRF meet these training requirements. Some staff are cross trained. SNF certified nursing aides may work in the CBRF if they are willing to go through the training. Resident assistant staff work exclusively in the CBRF.

DHS Recommendation

DHS finds that *Manawa Assisted Living* possesses the required home and community-based characteristics, is not isolating in nature, and overcomes the presumption of having institutional qualities.

Please note that these findings are preliminary only and must receive final approval from CMS.

In accordance with federal requirements, all compliance results will be made public by DHS. The decision will appear on the subsequent upload of facility information to DHS websites, including the [DQA Provider Search webpage](#) and the provider directories available at the [Consumer Guide to Health Care – Finding and Choosing an Assisted Living Facility webpage](#).

Ongoing Compliance

Wisconsin's Division of Quality Assurance (DQA) will ensure through ongoing compliance reviews that *Manawa Assisted Living* continues to meet the requirements of the HCBS Settings Rule. The DMS Bureau of Assisted Living (BAL) has incorporated the HCBS settings rule into its current assisted living survey process and activities. ([DQA Implementation of Home and Community-Based Services Settings Rule in Residential Assisted Living Facilities](#))

Waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are certified by the Wisconsin Department of Health Services (DHS) and work within the requirements of contracts with DHS. State licensed settings are subject to unannounced licensing visits, both in response to complaints and during regular oversight visits, by the state licensing authority, or by the entity that certified the provider if not regulated by the state. As part of these periodic licensing or certification reviews, the credentialing entity will also review the setting for continued HCBS compliance. Providers will be required to address any HCBS rule deficiencies.

When HCBS participants are resident in the setting, waiver program care managers are required to have ongoing contact, including face-to-face visits, at which time any areas of concern would be identified and addressed. Each participant in a Medicaid home and community-based waiver program is further protected through the state's long-term care ombudsman program, which has regular access to the assisted living setting. [Wisconsin's Board on Aging & Long Term Care](#): The Board on Aging and Long Term Care advocates for the interests of Wisconsin's long-term care consumers, informs those consumers of their rights and educates the public about health care systems and long-term care. The Board also operates the [Long Term Care Ombudsman](#), and [Volunteer Ombudsman](#) services.

EVIDENTIARY ASSESSMENT AND SUMMARY
Home and Community-Based Services (HCBS) Settings Rule
Heightened Scrutiny Review – Community-Based Residential Facility (CBRF)

Facility Name St. Anne’s Mission Court and St. Anne’s Providence Court		Facility Type Community-Based Residential Facility (CBRF)	
Corporate Name (if applicable) St. Anne’s Salvatorian Campus		License/Certification # 0015711 and 0012345	County Milwaukee
Facility Address 3800 North 92 nd Street	City Milwaukee	State WI	Zip Code 53272
Primary Contact Name: Janet Krahn	Primary Contact Direct Phone (incl. area code) 414-463-7570 (ext 302)	Primary Contact Email Address:: krahn@stannescampus.org	
Facility Website Address https://stannesc.org/EnhancedAssistedLiving.html			

Reason for Institutional Presumption

- Settings in a publicly or privately operated facility that provides inpatient institutional treatment. Name of institution: St. Anne’s Salvatorian Campus
- Settings in a building on the grounds of, or adjacent to, a public institution. Name of institution:
- Settings with the effect of isolating individuals from the broader community of individuals not receiving HCBS waiver services.

The Centers for Medicare and Medicaid Services’ (CMS) HCBS settings rule assumes that certain settings are not home and community-based. If a Wisconsin assisted living facility (setting) meets one of the criteria for institutional presumption as defined above, the DHS Division of Medicaid Services (DMS) conducts a heightened scrutiny review.

DMS believes that St. Anne’s Mission Court-Providence Court has overcome the institutional presumption and meets the criteria of a home and community-based services setting as summarized below.

To reinforce the extent to which Wisconsin’s licensing and certification regulations and standards align with and reinforce the HCBS settings rule, the applicable state standard or regulation is included, where applicable, with the compliance review summary below.

Facility Summary:

Mission Court (CBRF) and Providence Court (CBRF) are part of the St. Anne’s Salvatorian Campus located in Milwaukee, Wisconsin. Mission Court has 26 apartments occupying two floors and Providence Court has 50 apartments occupying 3 floors. The number of Family Care (Medicaid Waiver) residents is currently at 11. In addition to these residential communities, St. Anne’s campus has a short term rehabilitation center as well as senior living apartments, Tivoli Terrace (RCAC). The spacious studio apartments at both Mission Court and Providence Court each have private bathrooms and kitchenettes and provide the residents with privacy and freedom. Both Mission Court and Providence Court have shared living areas on each of their floors including a den, parlor lounge, activity room, library and spa. Located in the heart of downtown Milwaukee, Wisconsin, residents at the St. Anne’s campus enjoy many cultural activities, dining establishments and local destinations as part of a comprehensive activity program.

The community considers the setting a part of their community and does not associate the setting with institutional services.

Met Unmet Not Applicable

- An onsite review was conducted in May, 2019 with the lead team members, the Administrator, and the Director of Nursing services. At the review, I met with four volunteers from the Milwaukee and St. Anne’s community who all provided testimonials that St. Anne’s is seen as a vital part of Milwaukee and most of the residents at St. Anne’s are long time members of the church. Additionally, their perceptions were positive for how the community sees St. Anne’s. Many of the volunteers have current or past family members living at St. Anne’s and many of the residents at St. Anne’s continue to volunteer, attend events, etc. in the greater Greenfield-Milwaukee, Wisconsin area.
- St. Anne’s also sponsors events in Milwaukee for Milwaukee residents- holiday bazaars, bake sales, religious services, etc.

Individuals, to the extent they desire, have opportunities to participate in typical community life activities outside of the setting.

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning: The plan must be based on an assessment that addresses the person’s “capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known” and “social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs.” (Summarized from [Wis. Admin. Code § DHS 83.35](#))

Program Services: Community activities. The CBRF shall provide information and assistance to facilitate participation in personal and community activities. The CBRF shall develop, update and make available to all residents, monthly schedules and notices of community activities, including costs. ([Wis. Admin. Code § DHS 83.38\(1\)\(d\)](#))

Family and social contacts: The CBRF shall encourage and assist residents in maintaining family and social contacts. (Wis. Admin. Code § DHS 83.38(1)(e))

Met Unmet Not Applicab

- Residents Rights Policy- States that “residents are free to choose and participate in activities of their own choice.”
- Activity Calendars- Comprehensive in-house and external events are available to the residents- trips to the museums, dining out, Miller Park Milwaukee Brewers, Green Bay Packers games
- During the onsite review, I met with a number of residents during lunch and discussed the programming, transportation options, visitor policies and they all agreed that St. Anne’s is their 2nd home and they love the fact that the facility is part of Milwaukee and that many of their friends and family members live at St. Anne’s.

Activities are individualized or include more than just setting-based group activities

Met Unmet Not Applicable

- Both the Providence Court and Mission Court program statements highlight community and onsite activities. “Each resident is encouraged to stay involved in normal community activities. A list of in-house activities are posted on the bulletin boards and the community activities are posted on a monthly basis and each resident gets activity calendars and activities are provided seven days a week.
- Review of person-centered plans and resident files sample of five individuals confirmed that planning is based on the individual needs and choices. Residents can express interest areas, events that they would like to attend, etc.
- At the onsite visit, the reviewer observed TV consoles with activities listed for the day and also the upcoming week.

The setting supports access to community activities through its own transportation or coordination of transportation options.

Met Unmet Not Applicable

- *Resident Handbook* confirms that “residents are free to access any service in the community per their own choice. Residents are free to make their own schedules and are free to come and go as they please and two of the residents that I interviewed, still drive and have their own vehicle at St. Anne’s.
- Transportation options are plenty. Residents can make arrangements for cab, ride share services, agency van for appointments and the staff will assist with transportation for each resident.

Individuals, if they choose, have opportunities to seek employment and work in competitive integrated settings.

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning:

The plan must be based on an assessment that addresses the person’s “capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known” and “social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs.” ([WI Statewide Transition Plan](#); Summarized from [Wis. Admin. Code § DHS 83.35](#))

From contract between DHS and specific MCOs:

V. Care Management:

C. Assessment and Member-Centered Planning Process

C.1. Comprehensive Assessment

C.1.(c) Documentation: The comprehensive assessment will include documentation by the IDT staff of:

C.1.(c)(viii) An exploration with the member of the member’s preferences and opportunities for community integration including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community.

C.3. Member-Centered Planning

C.3.(c)(iv)(g) The setting in which the member resides supports integration into 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.

VII. Services

A. General Provisions

1. Comprehensive Service Delivery System

c. Serve to maintain community connections, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, and that are cost effective.

Addendum I

It is the DHS's "expectation under this contract that benefits will be fully integrated and will afford options that foster opportunities for interaction and integration into 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 while supporting each member's individual outcomes and recognizing each member's preferences."

Met Unmet Not Applicable

- Residents of Mission Court and Providence Court control their own schedules and choose their own activities. Three of the residents that I interviewed during the onsite review, still volunteer at their local parish and one of the residents drives the other two residents for their volunteers afternoon. Although the vast majority of residents do not work, volunteering and work would be encouraged if they so choose.

Individuals are able to control their personal resources.

Compliance within Wisconsin State Standards and Regulations

Every resident in a community-based residential facility has the right to "manage the resident's own financial affairs, unless the resident delegates, in writing, such responsibility to the facility and the facility accepts the responsibility or unless the resident delegates to someone else of the resident's choosing and that person accepts the responsibility." (Statewide Transition Plan; [Wis. Stat. § 50.09](#))

Met Unmet Not Applicable

Based on verification of this HCBS compliance rule and resident interviews, each resident at Mission Court and Providence Court has the right to manage his/her personal resources unless delegated by the resident to someone of their choosing. Confirmation of this policy is outlined in the Resident Handbook which indicates that in addition to personal management of funds and resources, each resident has a choice in selecting non-residential services as well as medical and social service providers. As to personal funds, each resident can choose their own bank or choose to work with the facility in setting up an account.

Choice, Independence, and Person-Centered Planning

The setting is selected by the individual from among setting options including non-disability specific settings. [42 CFR § 441.301(c)(4)(ii)]

Compliance within Wisconsin State Standards and Regulations

Wisconsin has protections in place for Medicaid waiver participants which ensure they understand their choices. DHS waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are responsible for discussing choice of service settings with the waiver participant and family/guardian to locate the most suitable provider setting, including a discussion of living in a non-disability specific setting. In practice, the waiver agencies are complying with this requirement, and documenting and monitoring the choice of settings in the member-centered plan or IRIS support and service plan, as applicable.

In Wisconsin, the choice of setting requirement is not the initial responsibility of the provider setting. Rather the choice of setting takes place through the person-centered planning process at the waiver agency level. Waiver agencies are certified by DHS and work within the requirements of contracts with DHS. Through ongoing monitoring, Wisconsin will ensure that individuals maintain the right to choose where they reside.

Additionally, Wisconsin has protections in place through *Pre-Admission Consultation (PAC)*: <https://www.dhs.wisconsin.gov/adrc/pros/pac.htm>

"Pre-admission consultation is a service provided by Aging and Disability Resource Centers (ADRCs) to individuals who are in the process of considering or making a decision about the need to move out of his or her home in order to receive the help they need to remain independent and safe. Sometimes people are unaware that there are services and supports that can be provided right in their own home, often making a move unnecessary. Those who want to move

into a nursing home or assisted living facility (such as a community based residential facility or residential care apartment complex), can find it difficult to know which facility would be the best for them or a loved one.”

Met Unmet Not Applicable

- A review of person centered plans confirm that these settings, Mission Court and Providence Court were selected from a choice of a variety of setting options, including non-disability specific settings. Additionally, documentation of annual review of choice of settings indicate that this setting continues to be the setting of choice for the individual.
- Evidentiary materials submitted included the St. Anne’s Salvatorian brochure that lists what services are available campus –wide and that choice was part of the culture of St. Anne’s. Prior to their placements, many of the residents had already selected St. Anne’s and a large percentage of the current CBRFs residents had previously resided at Tivoli Terrace, the senior living apartments on campus.
- Copies of signature pages of five (5) person centered support plans confirm choice in settings as well as confirmation of discussions during annual reviews that confirm that this setting continues to be the setting of choice. Additionally, resident interviews conducted during the onsite review included a question regarding choice of settings and each resident interview confirmed that the resident was actively involved in yearly planning and was able to exercise preference for setting.

The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and resources available for room and board. [42 CFR § 441.301(c)(4)(ii)]

Compliance within Wisconsin State Standards and Regulations

“COMPREHENSIVE INDIVIDUAL SERVICE PLAN Individual service plan review. Annually or when there is a change in a resident's needs, abilities or physical or mental condition, the individual service plan shall be reviewed and revised based on the assessment under sub. (1). All reviews of the individual service plan shall include input from the resident or legal representative, case manager, resident care staff, and other service providers as appropriate.” ([Wis. Admin. Code § DHS 83.35 \(1\)\(d\)](#))

Met Unmet Not Applicable

- The *Resident Handbook* makes clear that the settings at St. Anne’s campus, “...offers each individual the freedom to live as active lifestyle that they desire.” Compliance within the submitted documentation confirms that within the senior community, each individual can enjoy in house services, meal and complimentary services, dining options and a robust activity program planned for in house and external opportunities.
- Person-centered planning supports that the setting is the individual’s home and should be thought of and supported with a focus on individuality, privacy, needs, likes and preferences.
- Dining options which include a café, sandwich shop, dining room were observed during the onsite review and interviews conducted with the residents indicate that residents have a variety of choices for dining and access to food options at any time.
- During the onsite interviews, a number of the residents indicated that they also order food to be delivered to St. Anne’s and also many of the residents dine out during the week.

The setting facilitates choice regarding services and supports, and who provides them. Individuals have a choice in selecting their service providers, and are not reliant on services from the institution to the exclusion of other community-based options. Individuals can choose to receive services in the community to the same degree as individuals not receiving Medicaid HCBS. [42 CFR § 441.301(c)(4)(v)].

Compliance within Wisconsin State Standards and Regulations

Before or at the time of admission, the CBRF shall provide written information regarding services available and the charges for those services to each resident or the resident’s legal representative. This information shall include any charges for services not covered by the daily or monthly rate...” (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.29](#))

Person-Centered Planning:

1. "Options of services, providers, and settings, including non-disability specific settings, are offered to participants in all Wisconsin HCBS programs." (WI Statewide Transition Plan; Summarized from Wis. HCBS waivers, waiver-specific contracts, and policy documents.)
2. Residents have the right to "use the licensed, certified or registered provider of health care and pharmacist of the resident's choice." ([Wis. Stat. § 50.09](#))

Met Unmet Not Applicable

- Review of the *Assisted Living agreement (Page 3 E), Selection of Physician and other health care and service options*: Residents have the right to choose any licensed, certified or registered health care professional. There are healthcare and medical providers at St. Anne's that the resident can choose but if they utilize outside services, St. Anne's makes available transportation for those appointments.
- The *Resident Handbook* also cites that residents may need to contract with third party (healthcare and professional) services in order to maintain each residents' highest quality of life and degree of independence. "Tenants are free to independently contract with outside providers at their own expense."
- Additionally, the CBRF will allow for residents to contract with home health and other third party service providers that support and maintain their residences.

The setting optimizes, but does 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 [42 CFR § 441.301(c)(4)(iv)]

Compliance within Wisconsin State Standards and Regulations

Rights: Licensees must protect the civil rights of residents. Residents have the right to make decision relating to care, activities, daily routines, and other aspects of life that enhance the resident's self-reliance and support the resident's autonomy and decision-making. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.32](#))

Person-Centered Planning: The plan must be based on an assessment that addresses the person's capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known, and social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts, and vocational needs. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.35](#))

"The CBRF shall teach residents the necessary skills to achieve and maintain the resident's highest level of functioning." The CBRF shall provide or arrange services adequate to meet the needs of the residents including providing leisure time activities, facilitating participation in community activities, and encouraging and assisting residents in maintaining family and social contacts. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.38](#))

Rights: Residents have the right to make decisions relating to care, activities, daily routines, and other aspects of life that enhance the resident's self-reliance and support the resident's autonomy and decision making, and have the least restrictive conditions necessary to achieve the purposes of the resident's admission. The CBRF may not impose a curfew, rule, or other restriction on a resident's freedom of choice. (Statewide Transition Plan; Summarized from Wis. Admin. Code § DHS 83.32)

Met Unmet Not Applicable

- Review of the *Resident Handbook, Resident Rights Policy and Senior Living Policies* support the right of each resident to enjoy individual choice, autonomy and independence in making choices about their activities, décor, living arrangements. The philosophy and approach is to focus on the lifestyles and values of seniors and respect for individuality, independence, dignity, choice, privacy and a strong sense of well-being.
- A review of five person-centered plans supported individual choice in activities, hobbies, religious observance, etc. In addition to person centered plans, each resident has a wellness plan and an activity/recreational plan that assesses and documents interests, activities, involvement, etc.

- During the onsite review, the reviewer spoke with a group of residents and asked specific questions regarding their schedules, daily activities, dining options, privacy, apartment décor, etc. Each of the residents felt that they were able to make choices independent of the setting and that the setting supported their choices with assistance with transportation, access to services, etc.

Individuals have the freedom and support to control their own schedules and activities [42 CFR § 441.301(c)(4)(vi)(C)]

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning: The plan must be based on an assessment that addresses the person’s “capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known” and “social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs.” (Statewide Transition Plan, pg. 72; Summarized from Wis. Admin. Code § DHS 83.35)

Rights: Licensees must protect the civil rights of residents. Residents have the right to make decision relating to care, activities, daily routines, and other aspects of life that enhance the resident’s self-reliance and support the resident’s autonomy and decision-making. (Summarized from Wis. Admin. Code § DHS 83.32)

Met Unmet Not Applicable

- The *Resident Handbook* outlines and confirms the opportunities for each resident to have the freedom to live as active a lifestyle as desired. To that end, St. Anne’s Assisted Living programs offers scheduled group outings, entertainment and activities, worship opportunities, wellness programs, etc.
- Mission Court and Providence Court offers a home/studio apartment to each resident and encourages and supports that each resident has the right to choose when they eat, when they sleep, who they visit, who visits them and what they choose to engage in. Dining options are offered to allow made to order menus, snack and café options.
- Reviewer was able to meet with a recreational group (knitting and cataloging) of 10 residents during the onsite visit. Residents expressed their happiness with the variety of activities, dining options, fun and exciting community events, etc. They just loved “St. Anne’s.”

The setting ensures an individual’s rights of privacy, dignity and respect, and freedom from coercion and restraint [42 CFR § 441.301(c)(4)(iii)]

Compliance within Wisconsin State Standards and Regulations

Rights: Residents have the right to be “treated with courtesy, respect and dignity by all employees of the facility and other providers of health care and pharmacists with whom the resident comes in contact.” ([Statewide Transition Plan](#), pg. 72; Summarized from [Wis. Stat. § 50.09](#))

Residents must be provided with “physical and emotional privacy in treatment, living arrangements, and in caring for personal needs” including, privacy for visits by spouse or domestic partner, or to share a room with a spouse or domestic partner if both are residents for the same facility; privacy concerning health care; confidentiality of health and personal records; and the right to approve or refuse their release to any individual outside the facility. (Statewide Transition Plan, pg. 72; Summarized from Wis. Stat. § 50.09)

“Any form of coercion to discourage or prevent a resident or the resident’s legal representative from exercising any of the rights under this subchapter is prohibited. Any form of retaliation against a resident or the resident’s legal representative for exercising any of the rights in this subchapter, or against an employee or any other person who assists a resident or the resident’s legal representative in the exercise of any of the resident rights in this subchapter, is prohibited.” (Statewide Transition Plan, pg. 72; Wis. [Admin. Code § DHS 83.32](#))

In addition, each resident shall have all of the following rights: freedom from mistreatment; freedom from seclusion; freedom from chemical restraint; and freedom from physical restraints, except upon prior review and approval by DHS upon written authorization from the resident’s primary physician or advanced

practice nurse prescriber. DHS may place conditions on the use of a restraint to protect the health, safety, welfare, and rights of the resident. (Statewide Transition Plan; Summarized from Wis. Admin. Code § DHS 83.32)

Met Unmet Not Applicable

- The Mission Court and Providence Court *Resident Rights policy* addresses and ensures each of the requirements of 42 CFR § 441.301(c)(4)(iii). These requirements are confirmed through staff training and updates and clearly comply with all applicable federal, state and local laws regarding abuse/neglect, etc. As part of this policy, each resident is encouraged to sign the residents' rights protocol that ensures the facilities compliance with applicable statutes.
- New employee orientation and employee and staff orientation checklists include sections on privacy, confidentiality, resident rights, abuse/neglect prevention, mandated reporting requirements and a St. Anne's Assisted Living *Code of Ethics*.

Individuals are able to have visitors of their choosing at any time [42 CFR § 441.301(c)(4)(vi)(D)]

Compliance within Wisconsin State Standards and Regulations

Rights: Residents have the right to private and unrestricted communications with their family, physician or other medical provider, attorney, and any other person, unless documented as medically contraindicated. The right to private and unrestricted communications includes the right to... reasonable access to a telephone for private communications; and the opportunity for private visits. (WI Statewide Transition Plan; Summarized from Wis. Stat. § 50.09)

Met Unmet Not Applicable

Resident Handbook, Resident Rights Section confirms the "Right to Private and Unrestricted Communication." Each resident has the right to private visitors and private visits as part of a reasonable visitor policy. The handbook asserts that the resident is responsible for guests that visit and that the setting will have defined guest rules. Additionally, family members, friends are encouraged to dine with their friends and participate in activities at St. Anne's.

Individuals have access to food at any time

Compliance within Wisconsin State Standards and Regulations

The CBRF must provide each resident with palatable food that meets the recommended dietary allowance based on current guidelines, including at least three meals a day and a snack in the evening, or more often based on the resident's dietary needs. If a resident is away during meal time, the CBRF shall offer food to the resident on the resident's return. The CBRF shall make reasonable adjustments to the menu for individual resident likes, habits, customs, condition, and appetites. (Summarized from Wis. Admin. Code § DHS 83.41)

Met Unmet Not Applicable

Each and every resident at Mission Court and Providence Court that the reviewer interviewed, express that dining, food, snacks and variety are the most important issues in their daily lives. Both CBRFs maintain a Resident Council, and comments and complaints about food, etc., can be brought to the council. Small refrigerators are allowed in each of the rooms and there is a community lounge where snacks can be stored.

Individuals occupy the setting under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity [42 CFR § 441.301(c)(4)(vi)(A)]

Compliance within Wisconsin State Standards and Regulations

"Each resident shall have a written agreement that is signed by and provided to each party. The agreement includes a description of the space to be provided to the resident, the agreed upon rate, a statement of the resident's rights and the terms of termination, including timeframes. The agreement is updated annually." ([WI Statewide Transition Plan](#), pg. 77; [Wis. Admin. Code § DHS 83.29](#))

The agreement must include terms for resident notification to the CBRF of voluntary discharge, and reasons and notice requirements for involuntary discharge or transfer, including transfers within the CBRF. (WI Statewide Transition Plan, pg. 77; Summarized from Wis. Admin. Code § DHS 83.31)
State licensed settings are subject to unannounced licensing visits, both in response to complaints and during regular oversight visits. Through ongoing HCBS monitoring, Wisconsin will ensure that individuals maintain the right to make such choices while residing in this state-licensed community-based residential facility. Additionally, the state's long-term care ombudsman program has regular access to the setting.

Met Unmet Not Applicable

- Provider submitted documents support compliance of landlord tenant laws that indicate that St. Anne's (Mission Court and Providence Court) is responsible to be familiar with and comply with all requirements of applicable landlord tenant statutes for their local community. Mission Court and Providence Court, through the *Occupancy Agreement in its Resident Handbook*, state that they will comply with all applicable laws including the Fair Housing Act.
- At the onsite review, sample leases and admission agreements were reviewed and comply in accordance with HCBS. The occupancy agreement confirms that individuals occupy their residence under a legally enforceable occupancy agreement and that the individual enjoys the same responsibilities and protections from eviction by statute of their community.

Overcoming Institutional Presumption

The setting demonstrated a meaningful physical distinction between the HCBS setting and the institutional setting, including separate entrances and signage, physical divisions, and differences in décor.

Met Unmet Not Applicable

- Blueprints of the campus confirm separate entrances and exits and signage for the settings on the campus. On site review confirmed that both Mission Court and Providence Court CBRFs are located with apartments on the first four floors. Each floor is individualized and there are separate elevators to the CBRFs. Mission Court and Providence Court's program statement cites "that the settings are located adjacent to St. Anne's SNF but maintain a private entrance and that the separation from the nursing home assures that only residents of similar interests and abilities are in placement together." Each of the floors have a nursing station, dining room and living room. Confirmation of separate signage was conducted at the onsite review. The reviewer can confirm that each of the CBRFs have separate signage and entrances. There is a main foyer which hosts a Bistro and restaurant that can be patronized by residents, families and friends.
- Photos were submitted for the resident's rooms. Each resident lives in a studio, one bedroom apartment and are free to decorate as they desire.
- The reviewer observed that there was a marked difference between the rooms/apartments at the CBRF and the SNF. Additionally, at the ground level, there are décor distinctions between the CBRFs, RCAC and the SNF. The CBRFs are home-like, cozy and inviting, as is the RCAC. The skilled nursing facility is more uniformed and institutionalized.

Each individual has privacy in their sleeping or living unit.

Compliance within Wisconsin State Standards and Regulations

Residents must be provided with "physical and emotional privacy in treatment, living arrangements, and in caring for personal needs" including, privacy for visits by spouse or domestic partner, or to share a room with a spouse or domestic partner if both are residents for the same facility; privacy concerning health care; confidentiality of health and personal records; and the right to approve or refuse their release to any individual outside the facility. (Statewide Transition Plan; Summarized from Wis. Stat. § 50.09)

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance surveyors that the setting (DQA, [E-02138](#), HCBS Compliance Review):

1. Provides lockable key entry doors on all resident rooms, and individual keys to all residents.
2. Has a policy ensuring that staff uses facility keys to enter a resident's room only under circumstances agreed upon with the resident.

Met Unmet Not Applicable

- During the onsite visit, the reviewer viewed three separate apartments and can confirm that residents have private rooms and can enjoy physical and emotional privacy. Each resident has privacy with entrance doors lockable by the individual, with only appropriate staff having keys to doors and individual do have a choice of roommates, if applicable.
- HCBS lock and privacy policy was submitted for documents review and the HCBS privacy and lock policies are part of the HCBS staff training.

Individual living units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.

Compliance within Wisconsin State Standards and Regulations

Locks on living unit doors allow the resident to exercise his or her right to privacy and personal choice. Staff in each residential setting should always knock and receive permission prior to entering a resident's living space. DHS expects the residential setting to have a policy in place to ensure that staff always knock and receive permission prior to entering a resident's room or personal living space to respect residents' rights to privacy. Please refer to DHS' [Frequently Asked Questions \(FAQs\) about Door Locks in Adult Long-Term Care Residential Settings](#) for additional lock-related information.

Met Unmet Not Applicable

- Each person at Mission Court and Providence Court Assisted Living has privacy in his/her sleeping unit including a lockable door. Tenant privacy and lock policies were submitted for document review and locks were observed on all apartment doors in the CBRF's setting during the onsite review.
- During the onsite review, resident interviews confirmed that their respective living units have lockable doors.
- Mission Court and Providence Court provided lock and privacy policies that confirmed that staff always knock and receive permission prior to entering a resident's apartment; only the resident and the appropriate staff have keys to the living unit; and the written policy confirms that staff are trained as part of the HCBS compliance for this protocol.

Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement. [42 CFR § 441.301(c)(4)(vi)(B)(1-3)]

Compliance within Wisconsin State Standards and Regulations

Every resident in a community-based residential facility shall have the right to retain and use personal clothing and effects and to retain, as space permits, other personal possessions in a reasonably secure manner. (Summarized from Wis. Stat. § 50.09)

Met Unmet Not Applicable

- Review of the Resident Handbook and Admission Agreement confirm that each resident can furnish their living units as they so choose. Submitted photos confirmed that each living unit was distinct and furnished by each resident.
- During the onsite review, the reviewer observed that the décor of each of the apartments were distinct from the SNF units and each resident could bring personal furniture and furnishings to their living space. Each of the apartment units also a door bell, welcome mat and a ledge where a resident can personalize some belongings, photos, etc.

The setting is physically accessible to the individual [42 CFR § 441.301(c)(4)(vi)(E)]

Compliance within Wisconsin State Standards and Regulations

The bedroom and congregate dining and living area for any resident requiring a specified level of care and who is blind or not fully ambulatory shall be on the first floor. (Summarized from Wis. Admin. Code § DHS 83.50)

Bedrooms shall be designed and equipped to allow residents to achieve the highest level of independent functioning and shall be fully accessible to the resident. Within the bedroom, each resident shall have, or be provided with a closet or wardrobe with clothes hanging rods and shelves, and drawer space adequate to reasonably meet the needs of the resident. The bedroom shall have adequate accessible space for a resident's wheelchair or other adaptive or prosthetic equipment. (Summarized from Wis. Admin. Code § DHS 83.54)

Met Unmet Not Applicable

The setting is physically accessible to the individual resident-42 CFR § 441.301(c)(4)(vi)(E)]

The living unit is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services.

- The individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the applicable landlord/tenant laws.
- The State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law [42 CFR § 441.301(c)(4)(vi)(A)].

Compliance within Wisconsin State Standards and Regulations

"Each resident shall have a written agreement that is signed by and provided to each party. The agreement includes a description of the space to be provided to the resident, the agreed upon rate, a statement of the resident's rights and the terms of termination, including timeframes. The agreement is updated annually." ([Wis. Admin. Code § DHS 83.29](#))

The agreement must include terms for resident notification to the CBRF of voluntary discharge, and reasons and notice requirements for involuntary discharge or transfer, including transfers within the CBRF. (Summarized from [Wis. Admin. Code § DHS 83.31](#))

Met Unmet Not Applicable

- Documents submitted for review include, Individual Occupancy Agreement, Resident Handbook which clearly outlines that Mission Court/Providence Assisted Living is responsible to be familiar with and comply with all requirements of applicable landlord tenant statutes for their community. As part of the Occupancy Agreement, it is stated that the setting will provide "proper written notice to the resident whenever there is a decision regarding the resident's occupancy agreement, i.e., termination, etc.
- Service Agreement describes rate, care levels, termination notice and procedures, tenant policies and procedures. At the onsite review, the reviewer confirmed that the individual service agreement and occupancy agreement were signed and individualized in each of their ISPs.

Operational Distinction

The setting demonstrated meaningful operational distinction between the institution and the community-based setting, such as minimal administrative and financial interconnectedness.

Met Unmet Not Applicable

- Documents submitted include the Financial and Business Office Department Flowchart; Operating budgets for both Mission Court and Providence Court; payroll allocation sheets that demonstrate minimal connections between SNF and the CBRFs. Documents confirm that there is minimal financial and

administrative connectedness. Each of the settings have their own administrative staff and resident staff. There is a CEO for the entire campus but the administrative functioning and oversight for the CBRFs are under the Assisted Living Administrator.

- At the onsite review, the state reviewer reviewed organizational charts and staffing schedules and confirmed that there is minimal interconnectedness at the management and administrative levels for the settings. Additionally, the reviewer met with the management staff at Mission Court/Providence and the settings maintains separate Director of Administration.

There is a distinction between staff for the HCBS setting and the institutional setting. Staff working in the HCBS setting receive initial and ongoing training on HCBS settings rule requirements and principles, and person-centered planning.

Met Unmet Not Applicable

- Submitted documents included staff schedules; HCBS training curriculum, orientation curriculum, etc. Documents confirm that all staff in the CBRFs and RCAC receive HCBS settings training and that there is a written training policy for HCBS.
- Job descriptions and staff files were reviewed at the onsite visit and the reviewer confirmed that staff are distinctly assigned to a specific setting and that the only time there is cross staffing is for a Certified Nursing Assistant that might require training hours in the SNF.
- Six (6) staff were interviewed at the onsite review and each staff verified that they did receive HCBS training and do receive updates each year.

DHS Recommendation

The State of Wisconsin can attest that [Mission Court CBRF](#) and [Providence Court CBRF](#) are home and community based settings, are not isolating in nature, had have overcome the initial institutional presumption.

Please note that these findings are preliminary only and must receive final approval from CMS.

In accordance with federal requirements, all compliance results will be made public by DHS. The decision will appear on the subsequent upload of facility information to DHS websites, including the [DQA Provider Search webpage](#) and the provider directories available at the [Consumer Guide to Health Care – Finding and Choosing an Assisted Living Facility webpage](#).

Ongoing Compliance

Wisconsin's Division of Quality Assurance (DQA) will ensure through ongoing compliance reviews that [Mission Court CBRF](#) and [Providence Court CBRF](#) continue to meet the requirements of the HCBS Settings Rule. The DMS Bureau of Assisted Living (BAL) has incorporated the HCBS settings rule into its current assisted living survey process and activities. ([DQA Implementation of Home and Community-Based Services Settings Rule in Residential Assisted Living Facilities](#))

Waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are certified by the Wisconsin Department of Health Services (DHS) and work within the requirements of contracts with DHS. State licensed settings are subject to unannounced licensing visits, both in response to complaints and during regular oversight visits, by the state licensing authority, or by the entity that certified the provider if not regulated by the state. As part of these periodic licensing or certification reviews, the credentialing entity will also review the setting for continued HCBS compliance. Providers will be required to address any HCBS rule deficiencies.

When HCBS participants are resident in the setting, waiver program care managers are required to have ongoing contact, including face-to-face visits, at which time any areas of concern would be identified and addressed. Each participant in a Medicaid home and community-based waiver program is further protected through the state's long-term care ombudsman program, which has regular access to the assisted living setting. [Wisconsin's Board on Aging & Long Term Care](#): The Board on Aging and Long Term Care advocates for the interests of Wisconsin's long-term care consumers, informs those consumers of their rights and

educates the public about health care systems and long-term care. The Board also operates the [Long Term Care Ombudsman](#), and [Volunteer Ombudsman](#) services.

EVIDENTIARY ASSESSMENT AND SUMMARY
Home and Community-Based Services (HCBS) Settings Rule
Heightened Scrutiny Review – Community-Based Residential Facility (CBRF)

Facility Name Monarch Meadows at St. Joseph's Residence		Facility Type Community-Based Residential Facility (CBRF)	
Corporate Name (if applicable) St Joseph Residence Inc		License/Certification # 0017393	County Waupaca
Facility Address 107 E Beckert Rd	City New London	State WI	Zip Code 54961
Primary Contact Name Gidget Blank	Primary Contact Direct Phone (include area code) (920) 982-5354	Primary Contact Email Address gblank@sjrcare.org	
Facility Website Address https://stjosephresidence.com/assisted-living/			

Reason for Institutional Presumption

- Settings in a publicly or privately operated facility that provides inpatient institutional treatment. *St Joseph Residence*
- Settings on the grounds of, or adjacent to, a public institution. Name of institution:
- Settings with the effect of isolating individuals from the broader community of individuals not receiving HCBS waiver services.

The Centers for Medicare and Medicaid Services' (CMS) HCBS settings rule assumes that certain settings are not home and community-based. If a Wisconsin assisted living facility (setting) meets one of the criteria for institutional presumption as defined above, the DHS Division of Medicaid Services (DMS) conducts a heightened scrutiny review.

DMS believes that Monarch Meadows at St. Joseph's Residence has overcome the institutional presumption and meets the criteria of a home and community-based services setting as summarized below.

To reinforce the extent to which Wisconsin's licensing and certification regulations and standards align with and reinforce the HCBS settings rule, the applicable state standard or regulation is included, where applicable, with the compliance review summary below.

Facility Summary

New London, population 7,000, is located mostly in Waupaca County, Wisconsin, 20 miles from the Fox Valley and 40 miles from Green Bay, cultural and educational centers of northeast Wisconsin. Established in 1851, New London is on the Wolf River, famous for sturgeon fishing and several public areas for viewing the spring spawn run for this fish, average life span 50-60 years, but sturgeon can live past 100 years. New London is also a popular destination for river tubing, canoeing, and camping. The city becomes famous for one week in March every year when the name is changed to New Dublin and everyone becomes Irish so they can participate in the annual St. Patrick day festivities. The Grand Parade typically has an extensive lineup of bagpipe bands, marching bands,

festive clowns, specialty units, clans, an Irish wake parody, and 125 or more business floats. Also in New London, the Mosquito Hill Nature Center, bordering the Wolf River, provides scenic views and in July and August the center's unique Butterfly House features hundreds of live Wisconsin butterflies in a large screened enclosure filled with native plants.

Health care and care for the elderly dates back to 1929 when the Religious Hospitallers of St. Joseph, an order of Catholic Sisters in Canada, were invited to operate the 13 bed hospital. Over the years the hospital grew and eventually, in 1967, 38 patients were transferred to the St. Joseph Residents nursing home. In 1988, Marian Heights opened as an independent living apartment facility, now 26 units, and in 1995, Trinity Terrace opened as an assisted living CBRF, licensed for 32 beds. Monarch Meadows at St. Joseph Residence (hereafter, Monarch Meadows) is a 24-bed CBRF facility serving individuals who have a memory loss diagnosis. St. Joseph Residence is a not-for-profit corporation owned and operated by Catholic Health International.

The setting is integrated in and supports full access to the greater community [42 CFR § 441.301(c)(4)(i)].

The community considers the setting a part of their community and does not associate the setting with institutional services.

Met Unmet Not Applicable

The St. Joseph campus has been part of the city of New London since the mid-1960s. Bordering a residential neighborhood and across from several large manufacturing businesses, local townspeople have long passed by as well as come in to visit friends and family who chose the St Joseph Residence campus to call home. The tenants who live in the Marian Heights independent living apartments, Trinity Terrace CBRF, and Monarch Meadows are out in the community as they choose. Residents, typically from the city of New London and who have lived there for many years, choose to receive their long term care without having to leave their home community. Area businesses, churches, and organizations continue to serve people regardless of where they live, so there is no distinction of St. Joseph campus residents.

An example of community response to the multi-decades presence of St Joseph Residence is from 2004 when the old vacated Washington High School building was extensively remodeled by St. Joseph Residence Inc. to become The Chatham Apartments at The Washington Center, a 33-apartment assisted living RCAC located on a separate campus. One of the fundraising events was to sell some of the old schools bricks, which were happily bought by alumna from the high school. Strongly affiliated with the larger campus housing Trinity Terrace, today the Washington Center houses the local senior center and senior nutrition program including meals on wheels, the New London parks and rec department operates an activity room and the gymnasium, demonstrating the strong community ties all the facilities have with the New London community. The Monarch Meadows resident and family handbook discusses “supporting you to maintain family and social connections and continued participation in community activities as you desire.”

Individuals, to the extent they desire, have opportunities to participate in typical community life activities outside of the setting.

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning: The plan must be based on an assessment that addresses the person's “capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known” and “social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs.” (Summarized from [Wis. Admin. Code § DHS 83.35](#))

Program Services: Community activities. The CBRF shall provide information and assistance to facilitate participation in personal and community activities. The CBRF shall develop, update and make available to all residents, monthly schedules and notices of community activities, including costs. ([Wis. Admin. Code § DHS 83.38\(1\)\(d\)](#))

Family and social contacts: The CBRF shall encourage and assist residents in maintaining family and social contacts. (Wis. Admin. Code § DHS 83.38(1)(e))

Met Unmet Not Applicable

The Monarch Meadows resident and family handbook states “Residents are encouraged to continue participation in their community and family functions. Residents are free to come and go as they please. We request you notify the staff of any special instructions, such as needed medications or supplies, for extended leaves.” Further, under “Community Connections & Events: Community events and programs are encouraged and we wish for you to remain connected to prior groups, clubs, church groups, and routines as much as you desire. We also have a community bulletin board available for you and your family to access information regarding community events. Please feel free to post any events in the community that you feel others may enjoy.” Some favorite community activities are church luncheons, chamber events and school performance events. The handbook also states “We encourage you to continue to attend your church if you desire.”

Activities are individualized or include more than just setting-based group activities.

Met Unmet Not Applicable

The Monarch Meadows handbook states that from time to time, residents enjoy outings outside the community, or ordering lunch or dinner in. Some outing activities may have additional charges (optional participation).” Residents are informed about community activities and may come and go as they please to enjoy community activities of their choice. Residents can go out with family and friends, if they choose. Favorite activities are church luncheons, chamber events and school performance events. The local Lions club provides tickets to the “Kids from Wisconsin” performance and the New London Irish club invites residents to the local Irish celebration festivities.

The setting supports access to community activities through its own transportation or coordination of transportation options.

Met Unmet Not Applicable

Monarch Meadow residents have several transportation choices. The resident and family information states “Transportation (medical) is not typically covered by Medicare/Insurance. Most transportation must be paid for privately by the resident, and most providers require payment prior to transport.” Residents or family can arrange for transportation for medical appointments or ask the Resident Service Director to assist. Many residents have their friends or family members take them to appointments, shopping, family gatherings, and out for other activities. The New London Senior bus transports residents within the city limits, picking up and dropping off at the main entrance of the facility. Residents are given information about transportation options: New London Senior Center Bus: 920-982-8522 (donation based – runs in New London city limits), St. Joseph Residence Van Transport Program: contact staff at 920-982-9389, Metro Transport: 920-982-6059 and Koeppen’s Medical Transport: 715-823-5711.

Individuals, if they choose, have opportunities to seek employment and work in competitive integrated settings.

Met Unmet Not Applicable

Monarch Meadows residents may be employed and/or volunteer in the community if they wish, though to date no one has expressed an interest in being employed. Residents who are supported with waiver funds are asked at each member centered plan review about their interest in employment and education outcomes.

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning:

The plan must be based on an assessment that addresses the person’s “capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known” and “social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs.” ([WI Statewide Transition Plan](#); Summarized from [Wis. Admin. Code § DHS 83.35](#)).

From contract between DHS and specific MCOs:

V. Care Management:

C. Assessment and Member-Centered Planning Process

C.1. Comprehensive Assessment

C.1.(c) Documentation: The comprehensive assessment will include documentation by the IDT staff of:

C.1.(c)(viii) An exploration with the member of the member's preferences and opportunities for community integration including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community.

C.3. Member-Centered Planning

C.3.(c)(iv)(g) The setting in which the member resides supports integration into 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.

VII. Services

A. General Provisions

1. Comprehensive Service Delivery System

c. Serve to maintain community connections, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, and that are cost effective.

Addendum I

It is the DHS's "expectation under this contract that benefits will be fully integrated and will afford options that foster opportunities for interaction and integration into 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 while supporting each member's individual outcomes and recognizing each member's preferences."

Met Unmet Not Applicable

Monarch Meadows residents who are supported with waiver funding are involved in the development and ongoing review of member centered plans. Several sections of the MCP focus on outcomes chosen by the member, including where they want to live, employment and education preferences if any, and if they chose to access and participate in the community. The facility's ISP process, also including the resident as an integral member of the team, includes sections on family contacts, likes and dislikes, social and leisure needs/preferences.

Individuals are able to control their personal resources.

Compliance within Wisconsin State Standards and Regulations

Every resident in a community-based residential facility has the right to "manage the resident's own financial affairs, unless the resident delegates, in writing, such responsibility to the facility and the facility accepts the responsibility or unless the resident delegates to someone else of the resident's choosing and that person accepts the responsibility." (Statewide Transition Plan; [Wis. Stat. § 50.09](#)).

Met Unmet Not Applicable

The Monarch Meadows resident trust fund accounts policy states "St. Joseph Residence Inc. will manage the personal funds of residents who request the organization to do so. There is no obligation or requirement for residents to deposit his/her funds with the facility." For those who chose for the facility to hold their funds, the handbook states "During business hours, residents can conduct resident trust business at the St. Joseph Residence reception desk Monday to Friday, 8 a.m. to 4 p.m. On the weekends, or after business hours, residents can request funds from any staff member. We keep a limited amount of petty

cash on the unit, but have the ability to access your funds quickly if you find you need a larger amount of cash than is available on the unit.” Residents who live at Monarch Meadows can come and go as they wish and may continue to use the financial institutions of their choice.

The setting is selected by the individual from among setting options including non-disability specific settings. [42 CFR § 441.301(c)(4)(ii)].

Compliance within Wisconsin State Standards and Regulations

Wisconsin has protections in place for Medicaid waiver participants which ensure they understand their choices. DHS waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are responsible for discussing choice of service settings with the waiver participant and family/guardian to locate the most suitable provider setting, including a discussion of living in a non-disability specific setting. In practice, the waiver agencies are complying with this requirement, and documenting and monitoring the choice of settings in the member-centered plan or IRIS support and service plan, as applicable.

In Wisconsin, the choice of setting requirement is not the initial responsibility of the provider setting. Rather the choice of setting takes place through the person-centered planning process at the waiver agency level. Waiver agencies are certified by DHS and work within the requirements of contracts with DHS. Through ongoing monitoring, Wisconsin will ensure that individuals maintain the right to choose where they reside.

Additionally, Wisconsin has protections in place through *Pre-Admission Consultation (PAC)*: <https://www.dhs.wisconsin.gov/adrc/pros/pac.htm>.

“Pre-admission consultation is a service provided by Aging and Disability Resource Centers (ADRCs) to individuals who are in the process of considering or making a decision about the need to move out of his or her home in order to receive the help they need to remain independent and safe. Sometimes people are unaware that there are services and supports that can be provided right in their own home, often making a move unnecessary. Those who want to move into a nursing home or assisted living facility (such as a community based residential facility or residential care apartment complex), can find it difficult to know which facility would be the best for them or a loved one.”

Met Unmet Not Applicable

Monarch Meadows residents who are supported with waiver funding are involved in the development and ongoing review of member centered plans. Several sections of the MCP focus on outcomes chosen by the member, including where they want to live, employment and education preferences if any, and if they chose to access and participate in the community. The facility’s ISP process, also including the resident as an integral member of the team, includes sections on family contacts, likes and dislikes, social and leisure needs/preferences.

The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and resources available for room and board. [42 CFR § 441.301(c)(4)(ii)].

Compliance within Wisconsin State Standards and Regulations

“COMPREHENSIVE INDIVIDUAL SERVICE PLAN Individual service plan review. Annually or when there is a change in a resident's needs, abilities or physical or mental condition, the individual service plan shall be reviewed and revised based on the assessment under sub. (1). All reviews of the individual service plan shall include input from the resident or legal representative, case manager, resident care staff, and other service providers as appropriate.” ([Wis. Admin. Code § DHS 83.35 \(1\)\(d\)](#))

Met Unmet Not Applicable

Monarch Meadows *Resident Handbook*, “Individualized Service Plans (ISP): Each resident is encouraged to participate in creating an individualized service plan so our caregivers know your preferences and how you would like your care to be delivered. Our person-centered assessments and care plans will identify your strengths, weaknesses, physical, psychosocial, and spiritual needs, and will identify your personal interests, preferences, goals, and expectations. As your care or preferences change we will work together to update your ISP to reflect your needs and wishes. ISP policy is attached for your reference.” Residents

who are supported with waiver funds participate in the initial and regularly scheduled member centered plan which include discussions of where the member chooses to live and other preferences.

The setting facilitates choice regarding services and supports, and who provides them. Individuals have a choice in selecting their service providers, and are not reliant on services from the institution to the exclusion of other community-based options. Individuals can choose to receive services in the community to the same degree as individuals not receiving Medicaid HCBS. [42 CFR § 441.301(c)(4)(v)]

Compliance within Wisconsin State Standards and Regulations

Before or at the time of admission, the CBRF shall provide written information regarding services available and the charges for those services to each resident or the resident's legal representative. This information shall include any charges for services not covered by the daily or monthly rate (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.29](#)).

Person-Centered Planning

- “Options of services, providers, and settings, including non-disability specific settings, are offered to participants in all Wisconsin HCBS programs.” (WI Statewide Transition Plan; Summarized from Wis. HCBS waivers, waiver-specific contracts, and policy documents.)
- Residents have the right to “use the licensed, certified or registered provider of health care and pharmacist of the resident’s choice.” ([Wis. Stat. § 50.09](#))

Met Unmet Not Applicable

Monarch Meadows residents have a choice of medical providers and other services providers. The assisted living ancillary services election form requests contact information for the primary physician and other providers such as psychiatry, eye care, physical therapy, etc. The handbook states “If you, or your family members, schedule appointments with dentists, eye doctors or other doctors, please inform the staff ahead of time of the date and time of your appointment and if you need assistance arranging transportation. This allows us to prepare information the doctor may need concerning medications, vitals, labs, etc. that they may want to review during your appointment. It also will allow the nurse to follow up on the results of your appointment. Any changes resulting from the appointment should be given to the staff upon your return to ensure we update your plan of care with any changes in medications and/or treatments. At your request, our staff will gladly assist you in scheduling medical appointments.” The handbook also discusses non-medical services and states that residents “can continue to go out for beautician and barber services or may use the services of the beauticians and barbers who are scheduled at the facility, or they may have the barber or stylist of their choice use the beauty salon onsite, scheduling the beauty shop for their personal use.” Other resident information states that residents are required to have a local physician whom can easily be reached, and is willing to be responsible for issuing orders for medications, diet, treatments, and services affecting the Resident’s care. At minimum, an annual physician visit is required.

The setting optimizes, but does 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. [42 CFR § 441.301(c)(4)(iv)]

Compliance within Wisconsin State Standards and Regulations

Rights: Licensees must protect the civil rights of residents. Residents have the right to make decision relating to care, activities, daily routines, and other aspects of life that enhance the resident’s self-reliance and support the resident’s autonomy and decision-making. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.32](#)).

Person-Centered Planning: The plan must be based on an assessment that addresses the person’s capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known, and social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts, and vocational needs. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.35](#)).

“The CBRF shall teach residents the necessary skills to achieve and maintain the resident’s highest level of functioning.” The CBRF shall provide or arrange services adequate to meet the needs of the residents including providing leisure time activities, facilitating participation in community activities, and encouraging and assisting residents in maintaining family and social contacts. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.38](#)).

Rights: Residents have the right to make decisions relating to care, activities, daily routines, and other aspects of life that enhance the resident’s self-reliance and support the resident’s autonomy and decision making, and have the least restrictive conditions necessary to achieve the purposes of the resident’s admission. The CBRF may not impose a curfew, rule, or other restriction on a resident’s freedom of choice. (Statewide Transition Plan; Summarized from Wis. Admin. Code § DHS 83.32).

Met Unmet Not Applicable

Individuals apply to live at Monarch Meadows based on their need for supportive care in an assisted living setting. Residents are encouraged to continue participation in their community as they chose with groups, organizations and family functions. Residents are free to come and go as they please and to have visitors at any time. A variety of onsite activities are available if the resident chooses to participate. Several transportation options are available through the facility and the city. Residents can furnish and decorate their living unit with personal items and can chose their daily schedule and activity.

Individuals have the freedom and support to control their own schedules and activities. [42 CFR § 441.301(c)(4)(vi)(C)]

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning: The plan must be based on an assessment that addresses the person’s “capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known” and “social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs.” (Statewide Transition Plan, pg. 72; Summarized from Wis. Admin. Code § DHS 83.35) Rights: Licensees must protect the civil rights of residents. Residents have the right to make decision relating to care, activities, daily routines, and other aspects of life that enhance the resident’s self-reliance and support the resident’s autonomy and decision-making. (Summarized from Wis. Admin. Code § DHS 83.32)

Met Unmet Not Applicable

Monarch Meadows residents are encouraged to continue participation in their community and family functions. The resident handbook states “residents are free to come and go as they please. We request you notify the staff of any special instructions, such as needed medications or supplies, for extended leaves.” Residents may leave with family and friends. Residents are free to come and go as they please and to have visitors at any time. A variety of onsite activities are available if the resident chooses to participate. Residents can furnish and decorate their living unit with personal items and can chose their daily schedule and activity.

The setting ensures an individual’s rights of privacy, dignity and respect, and freedom from coercion and restraint, [42 CFR § 441.301(c)(4)(iii)].

Compliance within Wisconsin State Standards and Regulations

Rights: Residents have the right to be “treated with courtesy, respect and dignity by all employees of the facility and other providers of health care and pharmacists with whom the resident comes in contact.” ([Statewide Transition Plan](#), pg. 72; Summarized from [Wis. Stat. § 50.09](#)).

Residents must be provided with “physical and emotional privacy in treatment, living arrangements, and in caring for personal needs” including, privacy for visits by spouse or domestic partner, or to share a room with a spouse or domestic partner if both are residents for the same facility; privacy concerning health care; confidentiality of health and personal records; and the right to approve or refuse their release to any individual outside the facility. (Statewide Transition Plan, pg. 72; Summarized from Wis. Stat. § 50.09).

“Any form of coercion to discourage or prevent a resident or the resident’s legal representative from exercising any of the rights under this subchapter is prohibited. Any form of retaliation against a resident or the resident’s legal representative for exercising any of the rights in this subchapter, or against an employee or any other person who assists a resident or the resident’s legal representative in the exercise of any of the resident rights in this subchapter, is prohibited.” (Statewide Transition Plan, pg. 72; Wis. [Admin. Code § DHS 83.32](#)).

In addition, each resident shall have all of the following rights: freedom from mistreatment; freedom from seclusion; freedom from chemical restraint; and freedom from physical restraints, except upon prior review and approval by DHS upon written authorization from the resident’s primary physician or advanced practice nurse prescriber. DHS may place conditions on the use of a restraint to protect the health, safety, welfare, and rights of the resident. (Statewide Transition Plan; Summarized from Wis. Admin. Code § DHS 83.32).

Met Unmet Not Applicable

The Monarch Meadows resident rights document includes this section on “Self-determination: Residents have the right to participate in the care planning process and to make decisions relating to care, activities, self-administration of medication, daily routines and other aspects of life which enhance the resident’s self-reliance, independence, supports what is important to them.” And “Quality of Life & Dignity: Residents have the right to be cared for in a manner and environment that promotes maintenance or enhancement of each Resident’s quality of life, with dignity and respect, recognizing each Resident’s uniqueness, providing reasonable accommodations for their needs.” Monarch Meadows offers single living units with a private bathroom including a private shower. All units have door locks and residents have their own key.

Individuals are able to have visitors of their choosing at any time. [42 CFR § 441.301(c)(4)(vi)(D)]

Compliance within Wisconsin State Standards and Regulations

Rights: Residents have the right to private and unrestricted communications with their family, physician or other medical provider, attorney, and any other person, unless documented as medically contraindicated. The right to private and unrestricted communications includes the right to reasonable access to a telephone for private communications; and the opportunity for private visits. (WI Statewide Transition Plan; Summarized from Wis. Stat. § 50.09).

Met Unmet Not Applicable

Resident Handbook: “We recognize our Resident’s need to maintain contact with friends and family. We have an open door visiting policy and provide 24-hour access to individuals whom have the consent of the resident to visit. We do not have specific visiting hours, but we ask that you be considerate of other residents.” Residents may have visitors purchase a meal ticket and join them for a meal and families/groups can reserve a lounge area for private gatherings. There also is a visitation policy for Monarch Meadows with more specific information including that family pets may visit and residents can deny visitation to individuals they choose not to meet with.

Individuals have access to food at any time.

Compliance within Wisconsin State Standards and Regulations

The CBRF must provide each resident with palatable food that meets the recommended dietary allowance based on current guidelines, including at least three meals a day and a snack in the evening, or more often based on the resident’s dietary needs. If a resident is away during meal time, the CBRF shall offer food to the resident on the resident’s return. The CBRF shall make reasonable adjustments to the menu for individual resident likes, habits, customs, condition, and appetites. (Summarized from Wis. Admin. Code § DHS 83.41).

Met Unmet Not Applicable

Monarch Meadows residents are provided three meals each day and snacks are available at any time. Monarch Meadows has a policy for food brought in by family, visitors, and a policy for small refrigerators in resident living units so that food is kept safe. The facility provides a thermometer for food safety to residents who have a refrigerator in their living unit and makes available a refrigerator and freezer in each wing where residents may store personal food.

Friends and family are welcome to join in on meals. And if residents do not leave the facility for holiday meals, they are invited to invite one family member or friend to join them free of charge.

The living unit is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services:

- The individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the applicable landlord/tenant laws.
- The State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law. [42 CFR § 441.301(c)(4)(vi)(A)]

Compliance within Wisconsin State Standards and Regulations

“Each resident shall have a written agreement that is signed by and provided to each party. The agreement includes a description of the space to be provided to the resident, the agreed upon rate, a statement of the resident’s rights and the terms of termination, including timeframes. The agreement is updated annually.” ([WI Statewide Transition Plan](#), pg. 77; [Wis. Admin. Code § DHS 83.29](#)).

The agreement must include terms for resident notification to the CBRF of voluntary discharge, and reasons and notice requirements for involuntary discharge or transfer, including transfers within the CBRF. (Summarized from [Wis. Admin. Code § DHS 83.31](#)).

Met Unmet Not Applicable

The Monarch Meadows admission and residence agreement section 9 delineates the “terms and termination of residency agreement,” providing for 30 day notice on the part of the resident to terminate the agreement. Unless there are emergency or health related issues, the facility also is required to give 30 day notice and to provide information on grievance procedures. From the Trinity Terrace resident rights document: “Transfers & Discharges: This facility recognizes, and will honor Resident’s right to remain in its care. The facility has established policies and practices regarding transfer, discharge, and the provision of services for all residents regardless of source of payment.”

Overcoming Institutional Presumption

The setting demonstrated a meaningful physical distinction between the HCBS setting and the institutional setting, including separate entrances and signage, physical divisions, and differences in décor.

Met Unmet Not Applicable

As of February 2021, Monarch Meadows and St Joseph Residence are planning new outside signage for the entire campus to be completed by 7/1/2021. Monarch Meadows has a separate entrance from the SNF main entrance and separate parking areas. Monarch Meadows is on a separate floor from the SNF and the SNF cannot be accessed from the CBRF except for some staff. Monarch Meadows residents have their own furniture and personal items in their living unit, including small refrigerators if they wish. Décor in common areas of the CBRF is different from the SNF including flooring.

Each individual has privacy in their sleeping or living unit.

Compliance within Wisconsin State Standards and Regulations

Residents must be provided with “physical and emotional privacy in treatment, living arrangements, and in caring for personal needs” including, privacy for visits by spouse or domestic partner, or to share a room with a spouse or domestic partner if both are residents for the same facility; privacy concerning health care; confidentiality of health and personal records; and the right to approve or refuse their release to any individual outside the facility. (Statewide Transition Plan; Summarized from Wis. Stat. § 50.09).

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance surveyors that the setting (DQA, [F-02138](#), HCBS Compliance Review):

- Provides lockable key entry doors on all resident rooms, and individual keys to all residents.
- Has a policy ensuring that staff uses facility keys to enter a resident's room only under circumstances agreed upon with the resident.

Met Unmet Not Applicable

Monarch Meadows residents have private units with locks on their door and private bathrooms including a shower. The visitation policy requires that visitors step out of the room when privacy is needed for personal care or other private matters. If a resident chooses not have a key, they can still lock their door and request staff to open it when they return.

Individual living units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.

Compliance within Wisconsin State Standards and Regulations

Locks on living unit doors allow the resident to exercise his or her right to privacy and personal choice. Staff in each residential setting should always knock and receive permission prior to entering a resident's living space. DHS expects the residential setting to have a policy in place to ensure that staff always knock and receive permission prior to entering a resident's room or personal living space to respect residents' rights to privacy. Please refer to DHS' [Frequently Asked Questions \(FAQs\) about Door Locks in Adult Long-Term Care Residential Settings](#) for additional lock-related information.

Met Unmet Not Applicable

Monarch Meadows residents have living units with lockable doors. Although residents have the right to choose not to lock their doors, this allows residents to exercise his or her right to privacy and personal choice to secure their living unit. Upon admission, residents will be offered a key for the entrance door to their living unit. Residents are not required to accept a key. They may still lock their door at any time to safeguard their belongings, and have staff assist them in unlocking their door when needed. The lock policy states that staff are trained to respect residents' rights to privacy, and to knock and receive permission, prior to entering a resident's living space. Staff will only use the master key to enter a resident's room upon resident's request, if the resident's call light has been activated by the resident, or in the event the caregiver has concerns the resident could be injured, in danger, or in need of assistance or medical intervention, or other situations agreed upon by the resident and the facility.

Individuals sharing units have a choice of roommates in that setting.

Compliance within Wisconsin State Standards and Regulations

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance surveyors that residents have choice of roommates (DQA, [F-02138](#), HCBS Compliance Review)

Person-Centered Planning: Family Care Provider Network, I. Access to Providers: "For residential care facilities, evidence of adequate capacity shall include identification of the availability of residential providers offering private rooms, and a process for moving an individual to a private room when one becomes available that is consistent with the member's preferences." ([DHS-MCO Contract, Article VIII, I\(6\)d](#))

Met Unmet Not Applicable

All Monarch Meadows living units are single rooms.

Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement. [42 CFR § 441.301(c)(4)(vi)(B)(1-3)]

Compliance within Wisconsin State Standards and Regulations

Every resident in a community-based residential facility shall have the right to retain and use personal clothing and effects and to retain, as space permits, other personal possessions in a reasonably secure manner. (Summarized from Wis. Stat. § 50.09)

Met Unmet Not Applicable

Monarch Meadows residents bring their own furnishings, beds, linens, room decorations and other personal items as they wish and the facility encourages residents and their families to make their living unit their own. This is stated in the resident handbook, administration's comments to the checklist, and is confirmed by photos, the facility website and brochures.

The setting is physically accessible to the individual. [42 CFR § 441.301(c)(4)(vi)(E)]

Compliance within Wisconsin State Standards and Regulations

The bedroom and congregate dining and living area for any resident requiring a specified level of care and who is blind or not fully ambulatory shall be on the first floor. (Summarized from Wis. Admin. Code § DHS 83.50)

Bedrooms shall be designed and equipped to allow residents to achieve the highest level of independent functioning and shall be fully accessible to the resident. Within the bedroom, each resident shall have, or be provided with a closet or wardrobe with clothes hanging rods and shelves, and drawer space adequate to reasonably meet the needs of the resident. The bedroom shall have adequate accessible space for a resident's wheelchair or other adaptive or prosthetic equipment. (Summarized from Wis. Admin. Code § DHS 83.54)

Met Unmet Not Applicable

Monarch Meadow is a recently remodeled facility and is physically accessible.

Operational Distinction

The setting demonstrated meaningful operational distinction between the institution and the community-based setting, such as minimal administrative and financial interconnectedness.

Met Unmet Not Applicable

Monarch Meadows and all other facilities that are part of St Joseph Residence Inc. have separate budget and expenses and other financial related reports. The organizational charts show that the executive director is the CEO for the entire campus but Monarch Meadows is managed day to day by a full time onsite resident service director who oversees daily activities and the resident assistants. The administrator prepares the budget for the entire New London operation, however, each facility is budgeted with individual census, revenue, and expense expectations. The financial system can report separately for each facility.

There is a distinction between staff for the HCBS setting and the institutional setting. Staff working in the HCBS setting receive initial and ongoing training on HCBS settings rule requirements and principles, and person-centered planning.

Met Unmet Not Applicable

Monarch Meadows staff are trained in resident rights, resident grievance procedures, privacy and the door lock policy, and the ISP policy. Ongoing training is completed annually or more often as needed, and monthly staff meetings are held at which resident issues and policies are discussed. Staff are hired separately for Monarch Meadows, though some certified nursing assistants may be assigned as needed. Staff who work in both facilities are cross-trained.

DHS Recommendation

Wisconsin can attest that Monarch Meadows at St. Joseph's Residence possesses the required home and community-based characteristics, is not isolating in nature, and overcomes the presumption of having institutional qualities.

Please note that these findings are preliminary only and must receive final approval from CMS.

In accordance with federal requirements, all compliance results will be made public by DHS. The decision will appear on the subsequent upload of facility information to DHS websites, including the [DQA Provider Search webpage](#) and the provider directories available at the [Consumer Guide to Health Care – Finding and Choosing an Assisted Living Facility webpage](#).

Ongoing Compliance

Wisconsin's Division of Quality Assurance (DQA) will ensure through ongoing compliance reviews that [Monarch Meadows at St Joseph Residence](#) continues to meet the requirements of the HCBS Settings Rule. The DMS Bureau of Assisted Living (BAL) has incorporated the HCBS settings rule into its current assisted living survey process and activities. ([DQA Implementation of Home and Community-Based Services Settings Rule in Residential Assisted Living Facilities](#))

Waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are certified by the Wisconsin Department of Health Services (DHS) and work within the requirements of contracts with DHS. State licensed settings are subject to unannounced licensing visits, both in response to complaints and during regular oversight visits, by the state licensing authority, or by the entity that certified the provider if not regulated by the state. As part of these periodic licensing or certification reviews, the credentialing entity will also review the setting for continued HCBS compliance. Providers will be required to address any HCBS rule deficiencies.

When HCBS participants are resident in the setting, waiver program care managers are required to have ongoing contact, including face-to-face visits, at which time any areas of concern would be identified and addressed. Each participant in a Medicaid home and community-based waiver program is further protected through the state's long-term care ombudsman program, which has regular access to the assisted living setting. [Wisconsin's Board on Aging & Long Term Care](#): The Board on Aging and Long Term Care advocates for the interests of Wisconsin's long-term care consumers, informs those consumers of their rights and educates the public about health care systems and long-term care. The Board also operates the [Long Term Care Ombudsman](#), and [Volunteer Ombudsman](#) services.

EVIDENTIARY ASSESSMENT AND SUMMARY
Home and Community-Based Services (HCBS) Settings Rule
Heightened Scrutiny Review – Community-Based Residential Facility (CBRF)

Facility Name NEWCare Residence Assisted Living		Facility Type Community-Based Residential Facility (CBRF)	
Corporate Name (if applicable) NEWCare Inc.		License/Certification # 0015057	County Marinette
Facility Address 903 Main Ave. P.O. Box 460	City Crivitz	State WI	Zip Code 54114
Primary Contact Name Sharon Swanson	Primary Contact Direct Phone (include area code) 715-854-7474	Primary Contact Email Address newcare000@centurytel.net	
Facility Website Address https://www.newcarecrivitz.com/residence-assisted-living/			

Reason for Institutional Presumption

- Settings in a publicly or privately operated facility that provides inpatient institutional treatment. **NEWCare Convalescent Center**
- Settings on the grounds of, or adjacent to, a public institution. Name of institution: [Click or tap here to enter text.](#)
- Settings with the effect of isolating individuals from the broader community of individuals not receiving HCBS waiver services.

The Centers for Medicare and Medicaid Services' (CMS) HCBS settings rule assumes that certain settings are not home and community-based. If a Wisconsin assisted living facility (setting) meets one of the criteria for institutional presumption as defined above, the DHS Division of Medicaid Services (DMS) conducts a heightened scrutiny review.

DMS believes that NEWCare Residence has overcome the institutional presumption and meets the criteria of a home and community-based services setting as summarized below.

To reinforce the extent to which Wisconsin's licensing and certification regulations and standards align with and reinforce the HCBS settings rule, the applicable state standard or regulation is included, where applicable, with the compliance review summary below.

Facility Summary

Crivitz is a village of about 1000 people in Marinette County Wisconsin. Located on the Peshtigo River, Crivitz is 25 miles from the city of Marinette (population 11,000) and 50 miles from Green Bay (population 105,000), there is easy access to shopping, sports and cultural activities, and higher education. Northern Wisconsin is an all season recreational area with locals and tourists enjoying cross country skiing and snowmobiling, fishing and hunting, white water rafting and other water sports. The village boasts many small shops, the CYI community center, a public library and a museum. The area hosts flea markets, holiday parades, and restaurants. NEWCare Residence is located on Main Street in the center of Crivitz. The setting consists of quaint studio apartments for 26

residents designed to promote privacy while encouraging interaction with peers and continued socialization in the community. The house-like main entrance was originally a nursing home and built on and converted to an assisted living facility in the 70's. The newer SNF is a 43-bed facility, attached to but separated by fire doors from the CBRF. Many residents have lived in Crivitz their entire life; some retired back to Crivitz after having lived and worked in the city. Of the 21 current tenants, 9 are supported with waiver funding (1/2021). The NEWCare Inc not-for-profit entity also operates two adult family homes, located about 2.5 miles from this campus.

The setting is integrated in and supports full access to the greater community [42 CFR § 441.301(c)(4)(i)].

The community considers the setting a part of their community and does not associate the setting with institutional services.

Met Unmet Not Applicable

NEWCare Residence has been part of the village of Crivitz for decades and residents in and outside the facility are pleased to be able to stay in their community when they need long term care. Community members know the difference between the skilled care in the SNF and the more independent lifestyle of those living in NEWCare Residence. The main entrances for each setting are clearly different with the SNF being more institutional than the house-like entrance to the CBRF. The administrator commented that in recent weeks they have received several inquiries about available "apartments."

Individuals, to the extent they desire, have opportunities to participate in typical community life activities outside of the setting.

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning: The plan must be based on an assessment that addresses the person's "capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known" and "social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs." (Summarized from [Wis. Admin. Code § DHS 83.35](#))

Program Services: Community activities. The CBRF shall provide information and assistance to facilitate participation in personal and community activities. The CBRF shall develop, update and make available to all residents, monthly schedules and notices of community activities, including costs. ([Wis. Admin. Code § DHS 83.38\(1\)\(d\)](#))

Family and social contacts: The CBRF shall encourage and assist residents in maintaining family and social contacts. (Wis. Admin. Code § DHS 83.38(1)(e))

Met Unmet Not Applicable

The brochure and website states NEWCare Residence was designed to promote privacy while encouraging interaction with peers and continues socialization within the community. Social and community outings are listed in the personal services offered. A bulletin board lists activities both on and offsite. The administrator indicates there are a few tenants who go out into the community independently. Others go with family. And one tenant drives himself to appointments and visits as well as some of the restaurants in town. One ISP states "I enjoy going to the flea market in town." Another states "...will have access to the community as evidenced by attending appointments and outings as needed." Another ISP includes a resident's statement "I go out every Wednesday to the Red Hat Society meetings." And another "Drives his car to outings and appointments. Keeps car parked in circle drive."

Activities are individualized or include more than just setting-based group activities.

Met Unmet Not Applicable

NEWCare Residence tenants may come and go as they please, may have their own vehicle if they continue to drive, and can participate in community activities and activities with family and friends whenever they wish. When ISPs are reviewed with the resident, discussion always includes interest and participation in activities both on and offsite.

The setting supports access to community activities through its own transportation or coordination of transportation options.

Met Unmet Not Applicable

The NEWCare Residence program statement states that social activities are offered daily as well as transport to medical appointments. A listing of transportation services is provided to all residents and includes Marinette county elderly services, medical transport services, two taxi services, and Arms of Angels transport. Tenants may be transported by family and friends, and they may have their own vehicle. Off street parking is included in monthly rent.

Individuals, if they choose, have opportunities to seek employment and work in competitive integrated settings.

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning:

The plan must be based on an assessment that addresses the person's "capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known" and "social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs." ([WI Statewide Transition Plan](#); Summarized from [Wis. Admin. Code § DHS 83.35](#)).

From contract between DHS and specific MCOs:

V. Care Management:

C. Assessment and Member-Centered Planning Process

C.1. Comprehensive Assessment

C.1.(c) Documentation: The comprehensive assessment will include documentation by the IDT staff of:

C.1.(c)(viii) An exploration with the member of the member's preferences and opportunities for community integration including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community.

C.3. Member-Centered Planning

C.3.(c)(iv)(g) The setting in which the member resides supports integration into 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.

VII. Services

A. General Provisions

1. Comprehensive Service Delivery System

c. Serve to maintain community connections, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, and that are cost effective.

Addendum I

It is the DHS's "expectation under this contract that benefits will be fully integrated and will afford options that foster opportunities for interaction and integration into 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 while supporting each member's individual outcomes and recognizing each member's preferences."

Met Unmet Not Applicable

The NEWCare Residence ISP form has as an “Assessment Focus Area: Vocation: Employment” and specifically addresses any employment preferences of the resident. One example states “Member is not interested in pursuing employment at this time.” For those supported with waiver funds, the member centered plan also addresses employment and other community activities the member may be interested in addressing as a personal outcome.

Individuals are able to control their personal resources.

Compliance within Wisconsin State Standards and Regulations

Every resident in a community-based residential facility has the right to “manage the resident’s own financial affairs, unless the resident delegates, in writing, such responsibility to the facility and the facility accepts the responsibility or unless the resident delegates to someone else of the resident’s choosing and that person accepts the responsibility.” (Statewide Transition Plan; [Wis. Stat. § 50.09](#)).

Met Unmet Not Applicable

At the request of the tenant, NEWCare Residence will manage a personal fund account for the tenant in the business office. Tenants may request a lockbox in their unit or just hold on to their own funds in their locked living unit if they wish. Crivitz has five banks in town, and many residents choose to continue banking as they did prior to moving to NEWCare Residence.

The setting is selected by the individual from among setting options including non-disability specific settings. [42 CFR § 441.301(c)(4)(ii)].

Compliance within Wisconsin State Standards and Regulations

Wisconsin has protections in place for Medicaid waiver participants which ensure they understand their choices. DHS waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are responsible for discussing choice of service settings with the waiver participant and family/guardian to locate the most suitable provider setting, including a discussion of living in a non-disability specific setting. In practice, the waiver agencies are complying with this requirement, and documenting and monitoring the choice of settings in the member-centered plan or IRIS support and service plan, as applicable.

In Wisconsin, the choice of setting requirement is not the initial responsibility of the provider setting. Rather the choice of setting takes place through the person-centered planning process at the waiver agency level. Waiver agencies are certified by DHS and work within the requirements of contracts with DHS. Through ongoing monitoring, Wisconsin will ensure that individuals maintain the right to choose where they reside.

Additionally, Wisconsin has protections in place through *Pre-Admission Consultation (PAC)*: <https://www.dhs.wisconsin.gov/adrc/pros/pac.htm>.

“Pre-admission consultation is a service provided by Aging and Disability Resource Centers (ADRCs) to individuals who are in the process of considering or making a decision about the need to move out of his or her home in order to receive the help they need to remain independent and safe. Sometimes people are unaware that there are services and supports that can be provided right in their own home, often making a move unnecessary. Those who want to move into a nursing home or assisted living facility (such as a community based residential facility or residential care apartment complex), can find it difficult to know which facility would be the best for them or a loved one.”

Met Unmet Not Applicable

For NEWCare residents who are supported with waiver funds, the member centered plan regularly reviews the current living setting and the member’s choice of setting. The facility ISP meetings also discuss choice of setting under Discharge Plan. One ISP states: “I do not plan to discharge at this time. I wish to remain here and have my wants and needs met.” Another states about a discharge plan “None at this time. To stay in the CBRF.”

The setting options are identified and documented in the person-centered service plan and are based on the individual’s needs, preferences, and resources available for room and board. [42 CFR § 441.301(c)(4)(ii)].

Compliance within Wisconsin State Standards and Regulations

“COMPREHENSIVE INDIVIDUAL SERVICE PLAN Individual service plan review. Annually or when there is a change in a resident's needs, abilities or physical or mental condition, the individual service plan shall be reviewed and revised based on the assessment under sub. (1). All reviews of the individual service plan shall include input from the resident or legal representative, case manager, resident care staff, and other service providers as appropriate.” ([Wis. Admin. Code § DHS 83.35 \(1\)\(d\)](#))

Met Unmet Not Applicable

For NEWCare residents who are supported with waiver funds, the member centered plan regularly reviews the current living setting and the member’s choice of setting. The facility ISP meetings also discuss choice of setting under Discharge Plan. One ISP states: "I do not plan to discharge at this time. I wish to remain here and have my wants and needs met." Another states about a discharge plan “None at this time... to stay in the CBRF.”

The setting facilitates choice regarding services and supports, and who provides them. Individuals have a choice in selecting their service providers, and are not reliant on services from the institution to the exclusion of other community-based options. Individuals can choose to receive services in the community to the same degree as individuals not receiving Medicaid HCBS. [42 CFR § 441.301(c)(4)(v)]

Compliance within Wisconsin State Standards and Regulations

Before or at the time of admission, the CBRF shall provide written information regarding services available and the charges for those services to each resident or the resident’s legal representative. This information shall include any charges for services not covered by the daily or monthly rate (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.29](#)).

Person-Centered Planning

- “Options of services, providers, and settings, including non-disability specific settings, are offered to participants in all Wisconsin HCBS programs.” (WI Statewide Transition Plan; Summarized from Wis. HCBS waivers, waiver-specific contracts, and policy documents.)
- Residents have the right to “use the licensed, certified or registered provider of health care and pharmacist of the resident’s choice.” ([Wis. Stat. § 50.09](#))

Met Unmet Not Applicable

NEWCare Residence tenants consent to be under the care and treatment of a primary care physician of their choice. A summary information sheet about each resident notes physician, dentist and optometrist contact information and hospital preference. An institutional pharmacy provider form indicates that residents can choose any provider they wish or they may choose HealthDirect as a provider.

The setting optimizes, but does 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. [42 CFR § 441.301(c)(4)(iv)]

Compliance within Wisconsin State Standards and Regulations

Rights: Licensees must protect the civil rights of residents. Residents have the right to make decision relating to care, activities, daily routines, and other aspects of life that enhance the resident’s self-reliance and support the resident’s autonomy and decision-making. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.32](#)).

Person-Centered Planning: The plan must be based on an assessment that addresses the person’s capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known, and social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts, and vocational needs. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.35](#)).

“The CBRF shall teach residents the necessary skills to achieve and maintain the resident’s highest level of functioning.” The CBRF shall provide or arrange services adequate to meet the needs of the residents including providing leisure time activities, facilitating participation in community activities, and encouraging and assisting residents in maintaining family and social contacts. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.38](#)).

Rights: Residents have the right to make decisions relating to care, activities, daily routines, and other aspects of life that enhance the resident's self-reliance and support the resident's autonomy and decision making, and have the least restrictive conditions necessary to achieve the purposes of the resident's admission. The CBRF may not impose a curfew, rule, or other restriction on a resident's freedom of choice. (Statewide Transition Plan; Summarized from Wis. Admin. Code § DHS 83.32).

Met Unmet Not Applicable

The *Resident Rights* document, *Section k*, assures that residents “make decisions relating to care, activities, daily routines and other aspects of life which enhance the resident’s self-reliance and support the resident’s autonomy and decision making.” Residents participate in the planning of care and treatment and have the right to refuse care and treatment.

Individuals have the freedom and support to control their own schedules and activities. [42 CFR § 441.301(c)(4)(vi)(C)]

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning: The plan must be based on an assessment that addresses the person’s “capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known” and “social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs.” (Statewide Transition Plan, pg. 72; Summarized from Wis. Admin. Code § DHS 83.35) Rights: Licensees must protect the civil rights of residents. Residents have the right to make decision relating to care, activities, daily routines, and other aspects of life that enhance the resident’s self-reliance and support the resident’s autonomy and decision-making. (Summarized from Wis. Admin. Code § DHS 83.32)

Met Unmet Not Applicable

The *Resident Rights* document, *Section k*, assures that residents “make decisions relating to care, activities, daily routines and other aspects of life which enhance the resident’s self-reliance and support the resident’s autonomy and decision making.” Residents participate in the planning of care and treatment and have the right to refuse care and treatment.

The setting ensures an individual’s rights of privacy, dignity and respect, and freedom from coercion and restraint, [42 CFR § 441.301(c)(4)(iii)].

Compliance within Wisconsin State Standards and Regulations

Rights: Residents have the right to be “treated with courtesy, respect and dignity by all employees of the facility and other providers of health care and pharmacists with whom the resident comes in contact.” ([Statewide Transition Plan](#), pg. 72; Summarized from [Wis. Stat. § 50.09](#)).

Residents must be provided with “physical and emotional privacy in treatment, living arrangements, and in caring for personal needs” including, privacy for visits by spouse or domestic partner, or to share a room with a spouse or domestic partner if both are residents for the same facility; privacy concerning health care; confidentiality of health and personal records; and the right to approve or refuse their release to any individual outside the facility. (Statewide Transition Plan, pg. 72; Summarized from Wis. Stat. § 50.09).

“Any form of coercion to discourage or prevent a resident or the resident’s legal representative from exercising any of the rights under this subchapter is prohibited. Any form of retaliation against a resident or the resident’s legal representative for exercising any of the rights in this subchapter, or against an employee or any other person who assists a resident or the resident’s legal representative in the exercise of any of the resident rights in this subchapter, is prohibited.” (Statewide Transition Plan, pg. 72; Wis. [Admin. Code § DHS 83.32](#)).

In addition, each resident shall have all of the following rights: freedom from mistreatment; freedom from seclusion; freedom from chemical restraint; and freedom from physical restraints, except upon prior review and approval by DHS upon written authorization from the resident’s primary physician or advanced

practice nurse prescriber. DHS may place conditions on the use of a restraint to protect the health, safety, welfare, and rights of the resident. (Statewide Transition Plan; Summarized from Wis. Admin. Code § DHS 83.32).

Met Unmet Not Applicable

Privacy, dignity and respect, and freedom from coercion and restraint are addressed in the resident rights document. In addition, NEWCare residents are provided a key to their units. The doors are lockable/unlockable by key on the outside and lockable by push button on the inside and unlockable from inside by pulling down on the handle to open the door. Staff has a master key. The policy states that staff is to knock and unlock/enter door when necessary, such as rounds, when client rings for assistance, cleaning, safety issues or emergency situations.

Individuals are able to have visitors of their choosing at any time. [42 CFR § 441.301(c)(4)(vi)(D)]

Compliance within Wisconsin State Standards and Regulations

Rights: Residents have the right to private and unrestricted communications with their family, physician or other medical provider, attorney, and any other person, unless documented as medically contraindicated. The right to private and unrestricted communications includes the right to reasonable access to a telephone for private communications; and the opportunity for private visits. (WI Statewide Transition Plan; Summarized from Wis. Stat. § 50.09).

Met Unmet Not Applicable

NEWCare Residence tenants may have visitors at any time. The building is locked for the night, but visitors just need to call and staff will open the doors for them. In addition, House Rules #12 states that overnight visitors are welcome with the permission of the roommate if there is one, and not to exceed on week per visit or two weeks in a month except under special circumstances and with the prior knowledge and approval of the CBRF administrator or designee.

Individuals have access to food at any time.

Compliance within Wisconsin State Standards and Regulations

The CBRF must provide each resident with palatable food that meets the recommended dietary allowance based on current guidelines, including at least three meals a day and a snack in the evening, or more often based on the resident's dietary needs. If a resident is away during meal time, the CBRF shall offer food to the resident on the resident's return. The CBRF shall make reasonable adjustments to the menu for individual resident likes, habits, customs, condition, and appetites. (Summarized from Wis. Admin. Code § DHS 83.41).

Met Unmet Not Applicable

All meals and snacks are included in the monthly rent. The main kitchen, which is fully equipped and stocked, is open and accessible 24 hours per day. NEWCare Residence house rules 2 and 3 allow for residents to have their own microwave oven, coffee maker and refrigerator.

The living unit is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services:

- The individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the applicable landlord/tenant laws.
- The State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law. [42 CFR § 441.301(c)(4)(vi)(A)]

Compliance within Wisconsin State Standards and Regulations

"Each resident shall have a written agreement that is signed by and provided to each party. The agreement includes a description of the space to be provided to the resident, the agreed upon rate, a statement of the resident's rights and the terms of termination, including timeframes. The agreement is updated annually." ([WI Statewide Transition Plan](#), pg. 77; [Wis. Admin. Code § DHS 83.29](#)).

The agreement must include terms for resident notification to the CBRF of voluntary discharge, and reasons and notice requirements for involuntary discharge or transfer, including transfers within the CBRF. (Summarized from [Wis. Admin. Code § DHS 83.31](#)).

Met Unmet Not Applicable

The NEWCare Residence admission information delineates conditions for transfer/discharge. If a resident wishes to discharge, a minimum of seven days is requested; if the CBRF requests transfer or discharge, at least a 30 day notice is given. Monthly rent for units is based on size of the unit and if it has a full bath or half bath.

Overcoming Institutional Presumption

The setting demonstrated a meaningful physical distinction between the HCBS setting and the institutional setting, including separate entrances and signage, physical divisions, and differences in décor.

Met Unmet Not Applicable

There are separate entrances for the NEWCare Residence and NEWCare Inc. SNF. There is signage at the entrance to the SNF and signage at the main entrance to the CBRF. The two facilities are separated by fire doors. Tenants in the CBRF use their own furniture and common areas are home-like and comfortable. The SNF is institutional with standard hospital-like furnishings. Community members view the SNF as skilled care and the CBRF tenants as more independent.

Each individual has privacy in their sleeping or living unit.

Compliance within Wisconsin State Standards and Regulations

Residents must be provided with “physical and emotional privacy in treatment, living arrangements, and in caring for personal needs” including, privacy for visits by spouse or domestic partner, or to share a room with a spouse or domestic partner if both are residents for the same facility; privacy concerning health care; confidentiality of health and personal records; and the right to approve or refuse their release to any individual outside the facility. (Statewide Transition Plan; Summarized from Wis. Stat. § 50.09).

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance surveyors that the setting (DQA, [E-02138](#), HCBS Compliance Review):

- Provides lockable key entry doors on all resident rooms, and individual keys to all residents.
- Has a policy ensuring that staff uses facility keys to enter a resident’s room only under circumstances agreed upon with the resident.

Met Unmet Not Applicable

NEWCare residents are provided a key to their units. The doors are lockable/unlockable by key on the outside and lockable by push button on the inside and unlockable from inside by pulling down on the handle to open the door. Staff has a master key. Policy requires staff to knock and unlock/enter door only when necessary, such as when client rings for assistance, cleaning, safety issues or emergency situations.

Individual living units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.

Compliance within Wisconsin State Standards and Regulations

Locks on living unit doors allow the resident to exercise his or her right to privacy and personal choice. Staff in each residential setting should always knock and receive permission prior to entering a resident’s living space. DHS expects the residential setting to have a policy in place to ensure that staff always knock and receive permission prior to entering a resident’s room or personal living space to respect residents’ rights to privacy. Please refer to DHS’ [Frequently Asked Questions \(FAQs\) about Door Locks in Adult Long-Term Care Residential Settings](#) for additional lock-related information.

Met Unmet Not Applicable

NEWCare residents are provided a key to their units. The doors are lockable/unlockable by key on the outside and lockable by push button on the inside and unlockable from inside by pulling down on the handle to open the door. Staff has a master key. Policy requires that staff knock and unlock/enter door only when necessary, such as when client rings for assistance, cleaning, safety issues or emergency situations.

Individuals sharing units have a choice of roommates in that setting.

Compliance within Wisconsin State Standards and Regulations

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance surveyors that residents have choice of roommates (DQA, [F-02138](#), HCBS Compliance Review):

Person-Centered Planning: Family Care Provider Network, I. Access to Providers: “For residential care facilities, evidence of adequate capacity shall include identification of the availability of residential providers offering private rooms, and a process for moving an individual to a private room when one becomes available that is consistent with the member’s preferences.” ([DHS-MCO Contract, Article VIII, I\(6\)d](#))

Met Unmet Not Applicable

Currently all tenants have private rooms at NEWCare Residence. A couple or others may share a unit with the roommate of their choice. There is no distinction of shared units for tenants supported with waiver funding.

Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement. [42 CFR § 441.301(c)(4)(vi)(B)(1-3)]

Compliance within Wisconsin State Standards and Regulations

Met Unmet Not Applicable

NEWCare tenants bring their own furniture and can decorate their unit however they wish. Additional terms of the admission agreement #4. “All units are rented unfurnished except for window treatments, wardrobe and linen storage.” House rules recommend that tenants maintain renters insurance to cover their personal items.

The setting is physically accessible to the individual. [42 CFR § 441.301(c)(4)(vi)(E)]

Compliance within Wisconsin State Standards and Regulations

Met Unmet Not Applicable

NEWCare Residence is physically accessible inside and outside.

Operational Distinction

The setting demonstrated meaningful operational distinction between the institution and the community-based setting, such as minimal administrative and financial interconnectedness.

Met Unmet Not Applicable

While the campus has a single address, there is separate signage and separate entrances for the CBRF. The outside sign says “NEWCare Residence.” There is currently an administrator of the CBRF and a separate administrator for the SNF. Separate schedules are prepared for the NEWCare Residence CBRF and the SNF. CBRF care staff are personal care workers and SNF care staff are CNAs. The SNF and the CBRF do not share care staff. Community members refer to the facilities as “skilled” and “more independent.”

There is a distinction between staff for the HCBS setting and the institutional setting. Staff working in the HCBS setting receive initial and ongoing training on HCBS settings rule requirements and principles, and person-centered planning.

Met Unmet Not Applicable

Orientation for new staff at NEWCare Residence includes training by HR on general policies and employee information. The CBRF administrator trains staff on resident rights and ISPs. As part of the staff training, employees sign that they “have been shown and understand the assessed needs and individual services for each resident they are responsible for.” A copy of *New Employee Orientation-CBRF* training is reviewed with all new staff. Resident rights are also on the syllabus for yearly in-services training.

DHS Recommendation

DHS finds that *NEWCare Residence* possesses the required home and community–based characteristics, is not isolating in nature, and overcomes the presumption of having institutional qualities.

Please note that these findings are preliminary only and must receive final approval from CMS.

In accordance with federal requirements, all compliance results will be made public by DHS. The decision will appear on the subsequent upload of facility information to DHS websites, including the [DQA Provider Search webpage](#) and the provider directories available at the [Consumer Guide to Health Care – Finding and Choosing an Assisted Living Facility webpage](#).

Ongoing Compliance

Wisconsin’s Division of Quality Assurance (DQA) will ensure through ongoing compliance reviews that *NEWCare Residence* continues to meet the requirements of the HCBS Settings Rule. The DMS Bureau of Assisted Living (BAL) has incorporated the HCBS settings rule into its current assisted living survey process and activities. ([DQA Implementation of Home and Community-Based Services Settings Rule in Residential Assisted Living Facilities](#))

Waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are certified by the Wisconsin Department of Health Services (DHS) and work within the requirements of contracts with DHS. State licensed settings are subject to unannounced licensing visits, both in response to complaints and during regular oversight visits, by the state licensing authority, or by the entity that certified the provider if not regulated by the state. As part of these periodic licensing or certification reviews, the credentialing entity will also review the setting for continued HCBS compliance. Providers will be required to address any HCBS rule deficiencies.

When HCBS participants are resident in the setting, waiver program care managers are required to have ongoing contact, including face-to-face visits, at which time any areas of concern would be identified and addressed. Each participant in a Medicaid home and community-based waiver program is further protected through the state’s long-term care ombudsman program, which has regular access to the assisted living setting. [Wisconsin’s Board on Aging & Long Term Care](#): The Board on Aging and Long Term Care advocates for the interests of Wisconsin’s long-term care consumers, informs those consumers of their rights and educates the public about health care systems and long-term care. The Board also operates the [Long Term Care Ombudsman](#), and [Volunteer Ombudsman](#) services.

EVIDENTIARY ASSESSMENT AND SUMMARY
Home and Community-Based Services (HCBS) Settings Rule
Heightened Scrutiny Review – Residential Care Apartment Complex (RCAC)

Facility Name North Terrace Assisted Living		Facility Type Residential Care Apartment Complex (RCAC)	
Corporate Name (if applicable) Markesan Residents Home		License/Certification # 001265	County Green Lake
Facility Address 1130 North Margaret St	City Markesan	State WI	Zip Code 53946
Primary Contact Name Sarah Peterson	Primary Contact Direct Phone (include area code) 920-398-2751	Primary Contact Email Address speterson@mrhome.org	
Facility Website Address www.mrhome.org			

Reason for Institutional Presumption

- Settings in a publicly or privately operated facility that provides inpatient institutional treatment. [Markesan Residents Home Skilled Nursing Facility](#)
- Settings on the grounds of, or adjacent to, a public institution. Name of institution: [Click or tap here to enter text.](#)
- Settings with the effect of isolating individuals from the broader community of individuals not receiving HCBS waiver services.

The Centers for Medicare and Medicaid Services' (CMS) HCBS settings rule assumes that certain settings are not home and community-based. If a Wisconsin assisted living facility (setting) meets one of the criteria for institutional presumption as defined above, the DHS Division of Medicaid Services (DMS) conducts a heightened scrutiny review.

DMS believes that [North Terrace Assisted Living](#) has overcome the institutional presumption and meets the criteria of a home and community-based services setting as summarized below.

To reinforce the extent to which Wisconsin's licensing and certification regulations and standards align with and reinforce the HCBS settings rule, the applicable state standard or regulation is included, where applicable, with the compliance review summary below.

Facility Summary

[North Terrace Assisted Living](#) (hereafter North Terrace), licensed by the State of Wisconsin as a Residential Care Apartment Complex (RCAC), and part of the Markesan Resident Home in Markesan, Wisconsin. Constructed in 1996, the bed capacity is currently at 32 units, with eight residents supported through [Family Care](#) (Medicaid waiver long-term care). North Terrace Assisted Living is a community dedicated to providing residents with a wide choice of services that enable each resident to live with dignity and the highest level of independence. For more than five decades, Markesan Resident Home has received support from the greater Green Lake county community and is a not-for-profit, charitable organization, dedicated to improving the quality of life for the individuals it serves.

The business model of Patient Centered Care comes first and designed to preserve independence, dignity and individual choice. Financial resources and charitable contributions are invested back into Markesan Resident Home enabling them to provide a five star national rating for service, quality and care in assisted living, skilled nursing, memory care, rehabilitative care, respite care and at home care.

The setting is integrated in and supports full access to the greater community [42 CFR § 441.301(c)(4)(i)].

The community considers the setting a part of their community and does not associate the setting with institutional services.

Met Unmet Not Applicable

The community has been part of the Markesan Resident Home campus of from the very beginning. The board of directors consists of representatives from several churches in the Green Lake and Markesan areas. A strong volunteer program links residents with the community, providing activities off both campus and onsite. Family and friends are encouraged to visit with resident's offsite, enjoying shopping and restaurant trips, family events, and community celebrations. The CBRF is distinctly separate from the SNF in both décor and activity. Three testimonials describe that residents feel this setting is "home," and that they can continue daily life with friends, family and community. Residents are welcome to choose outpatient therapy services located in the facility.

Individuals, to the extent they desire, have opportunities to participate in typical community life activities outside of the setting.

Compliance within Wisconsin State Standards and Regulations

From [contract between SMA and specific MCOs](#):

ADDENDUM VI.

Personal Experience Outcomes in Long-Term Care:

Assisting people to achieve their desired individual quality-of-life outcomes is one of the primary goals of managed long-term care. The following personal experience outcome domains are the areas of life that people in long-term care programs have identified as being important to their quality of life. They provide a framework for learning about and understanding the individual's needs, values, preferences, and priorities in the assessment and care planning process and in monitoring the quality of our long-term care programs. It is expected that each of these domains will be assessed during the member-centered planning process.

Choice – choosing:

- Where and with whom to live
- Supports and services
- Daily routines

Personal Experience – having:

- Interaction with family and friends
- Work or other meaningful activities
- Community involvement
- Stability
- Respect and fairness
- Privacy

Each participant in a Medicaid home and community-based waiver program must have a person-centered plan that, when indicated, includes any conditions that are to be applied to the conditions defined in the HCBS settings rule. (Wisconsin HCBS waivers, waiver-specific contracts, and policy documents)

Met Unmet Not Applicable

- North Terrace *Tenant Handbook (Exhibit E)*, provided to each tenant upon admission, outlines the right to attend activities and events in the community at their leisure.
- Sample activity calendar submitted show the various activities that occur both in house and in the community.
- Photographs of residents at activities demonstrate the wide range of choices for residents.
- Typical community events include church services, trips to the Dollar Store and Walmart, senior citizens centers, fish fries and restaurants.
- During the COVID-19 pandemic, residents at North Terrace are involved in a community project, sewing buttons on headbands and facemasks for the national project, “Headbands for Heroes.”
- A review of a person-centered plan confirms that a resident continues his volunteer position at Markesan Kiwanis club.

Activities are individualized or include more than just setting-based group activities.

Met Unmet Not Applicable

- A review of the submitted sample person-centered plan indicates, “Recreational interests, social habits, community involvement, independent living and choices are integral to planning.
- A review of three person-centered plans highlighted the resident’s involvement in community participation, volunteering at the senior center, singing in the church choir, shopping in the community, attending church in the community, and outings with family and friends.
- As part of the document, *Your Rights as an Assisted Living (RCAC) Tenant*, each tenant has the right to choose, “to visit family and friends” and “to participate in activities inside and outside the home.”

The setting supports access to community activities through its own transportation or coordination of transportation options.

Met Unmet Not Applicable

North Terrace *Tenant Information Handbook* submitted that outlines transportation policies. Section 18 of the Handbook, under “Transportation” states, “Transportation will be arranged for medical appointments or social activities upon request. Tenants who choose transportation other than family member will be charged for this service”. North Terrace will arrange transportation for some community events and scheduled social outings. Additionally, there are taxi and ride-share services in the community and North Terrace will assist in identifying resources for the resident.

Individuals, if they choose, have opportunities to seek employment and work in competitive integrated settings.

Compliance within Wisconsin State Standards and Regulations

From contract between DHS and specific MCOs:

V. Care Management:

C. Assessment and Member-Centered Planning Process

C.1. Comprehensive Assessment

C.1.(c) Documentation: The comprehensive assessment will include documentation by the IDT staff of:

C.1.(c)(viii) An exploration with the member of the member’s preferences and opportunities for community integration including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community.

C.3. Member-Centered Planning

C.3.(c)(iv)(g) The setting in which the member resides supports integration into 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.

VII. Services

A. General Provisions

1. Comprehensive Service Delivery System

- c. Serve to maintain community connections, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, and that are cost effective.

Addendum I

It is the DHS's "expectation under this contract that benefits will be fully integrated and will afford options that foster opportunities for interaction and integration into 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 while supporting each member's individual outcomes and recognizing each member's preferences."

Met Unmet Not Applicable

As outlined in the *Your rights as an Assisted Living (RCAC) Tenant*, each resident has the right to visitors, make decisions, volunteer in the community, take part in activities in the community, visit with family and friends, etc.

Individuals are able to control their personal resources.

Compliance within Wisconsin State Standards and Regulations

Each tenant has the right to manage his or her own financial affairs, unless the tenant delegates responsibility to another person or the tenant has a guardian. (Summarized from [Wis. Admin. Code § DHS 89.34](#))

From [contract between SMA and specific MCO](#):

V. Care Management:

C. Assessment and Member-Centered Planning Process

C.1. Comprehensive Assessment

C.1.(c) The comprehensive assessment will include documentation by the interdisciplinary (IDT) staff of all of the following:

- (ix) An exploration with the member of the member's preferences and opportunities for community integration including opportunities to control personal resources.

C.3. Member-Centered Plan (MCP)

C.3.(c)(iv) The MCP shall document at least the following:

- (g) The setting in which the member resides supports integration into the greater community, including opportunities to control personal resources.
-

Met Unmet Not Applicable

- *North Terrace Tenant Handbook* – “Keys are issued to each tenant for his/her individual apartment. Each tenant also receives a key for his or her personal mailbox.”
 - As outlined in the *Tenant Handbook*, tenants manage their own personal funds and they have access to their banks and accounts at community facilities. As stated in the Handbook, “The tenant or tenant’s legal representative has a right to manage his/her own personal funds. The tenant may delegate Markesan Resident Home, Inc. to store his/her funds, which are secured and available at the main business office.”
-

Choice, Independence, and Person-Centered Planning

The setting is selected by the individual from among setting options including non-disability specific settings. [42 CFR § 441.301(c)(4)(ii)].

Compliance within Wisconsin State Standards and Regulations

Wisconsin has protections in place for Medicaid waiver participants which ensure they understand their choices. DHS waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are responsible for discussing choice of service settings with the waiver participant and family/guardian to locate the most suitable provider setting, including a discussion of living in a non-disability specific setting. In practice, the waiver agencies are complying with this requirement, and documenting and monitoring the choice of settings in the member-centered plan or IRIS support and service plan, as applicable.

In Wisconsin, the choice of setting requirement is not the initial responsibility of the provider setting. Rather the choice of setting takes place through the person-centered planning process at the waiver agency level. Waiver agencies are certified by DHS and work within the requirements of contracts with DHS. Through ongoing monitoring, Wisconsin will ensure that individuals maintain the right to choose where they reside.

Additionally, Wisconsin has protections in place through *Pre-Admission Consultation (PAC)*: <https://www.dhs.wisconsin.gov/adrc/pros/pac.htm>

“Pre-admission consultation is a service provided by Aging and Disability Resource Centers (ADRCs) to individuals who are in the process of considering or making a decision about the need to move out of his or her home in order to receive the help they need to remain independent and safe. Sometimes people are unaware that there are services and supports that can be provided right in their own home, often making a move unnecessary. Those who want to move into a nursing home or assisted living facility (such as a community based residential facility or residential care apartment complex), can find it difficult to know which facility would be the best for them or a loved one.”

From [contract between SMA and specific MCOs](#):

- V. Care Management:
 - A. Member Participation:
 - A.2. Members shall receive clear explanations of:
 - d. The full range of residential options, including in-home care, residential care and nursing home care when applicable.
 - e. The benefits, drawbacks and likelihood of success of each option.
 - C.1. Comprehensive Assessment
 - C.1. (ix) – An exploration with the member of the member’s preferred living situation and a risk assessment for the stability of housing and finances to sustain housing as indicated.
 - C.3. Member-Centered Plan (MCP)
 - C.3.(c)(iv) The MCP shall document at least the following:
 - (f) – The home and community-based residential setting option chosen by the member and other options presented to the member unless the member declines to consider other options.

ADDENDUM VI.

Personal Experience Outcomes in Long-Term Care:

Assisting people to achieve their desired individual quality-of-life outcomes is one of the primary goals of managed long-term care. The following personal experience outcome domains are the areas of life that people in long-term care programs have identified as being important to their quality of life. They provide a framework for learning about and understanding the individual’s needs, values, preferences, and priorities in the assessment and care planning process and

in monitoring the quality of our long-term care programs. It is expected that each of these domains will be assessed during the member-centered planning process.

Choice – choosing:

- Where and with whom to live
- Supports and services

[50.034, Stats](#)

WI State Statue 50.034 Residential care apartment complexes.

5n) Required referral. Subject to sub. (5p), when a residential care apartment complex first provides written material regarding the residential care apartment complex to a prospective resident who is at least 65 years of age or has developmental disability or a physical disability and whose disability or condition is expected to last at least 90 days, the residential care apartment complex shall refer the prospective resident to a resource center under s. [46.283](#), unless any of the following applies:

- [50.034\(5n\)\(c\)](#) The person is an enrollee of a care management organization.

Person-Centered Planning: Options of services, providers, and settings, including non-disability specific settings, are offered to participants in all Wisconsin HCBS programs. ([Statewide Transition Plan](#), pg. 85; Wisconsin HCBS waivers, waiver-specific contracts, and policy documents)

Met Unmet Not Applicable

Tenant Handbook – Each tenant has “an Individual Service Plan (ISP) that is mutually developed with each tenant following admission. The final plan is based on the comprehensive assessment and needs of each tenant. It will include the type, amount and frequency of services to be provided. Additionally, the plan will indicate the type and amount of assistance that the tenant needs to attend or participate in activities or social events.”

The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and resources available for room and board. [42 CFR § 441.301(c)(4)(ii)].

Compliance within Wisconsin State Standards and Regulations

Wisconsin Admin. Code ch. DHS 89 is intended “to establish standards and procedures for the certification or registration of residential care apartment complexes in order to promote the health and safety of persons residing in and receiving services from those facilities. This chapter is intended to ensure that all residential care apartment complexes provide each tenant with an independent apartment in a setting that is home-like and residential in character; make available personal, supportive and nursing services that are appropriate to the needs, abilities and preferences of individual tenants; and operate in a manner that protects tenants’ rights, respects tenant privacy, enhances tenant self-reliance and supports tenant autonomy in decision-making including the right to accept risk.” ([Wis. Admin. Code § DHS 89.11](#))

The tenant has the right to choose services and the right to refuse services. The tenant has the right to receive visitors, meet with groups, or participate in activities of the tenant’s choice, to receive and send sealed mail, and to have a private phone installed in his or her independent apartment. (Summarized from [Wis. Admin. Code § DHS 89.34](#))

Each tenant has the right to: manage his or her own financial affairs, unless the tenant delegates responsibility to another person or the tenant has a guardian; have choice of his or her physician and other medical providers; and a choice of providers of supportive, personal, and nursing services from providers other than the residential care apartment complex, subject to the requirements of [Wis. Admin. Code § DHS 89.24\(2\)\(b\)](#).

From [contract between SMA and specific MCOs](#):

V. Care Management:

C. Assessment and Member-Centered Planning Process:

Member-centered planning reflects understanding between the member and the IDT staff and will demonstrate changes that occur with the member's outcomes and health status. The member is always central to the member centered planning and comprehensive assessment process. The IDT staff will ensure that the member is at the center of the member centered planning process. The member will actively participate in the planning process, in particular, in the identification of personal outcomes and preferences.

Met Unmet Not Applicable

From Sample ISP template – specific areas to attest to individualized needs and choices:

- Recreational Interests & Social Habits
- Facility Activities
 - Able to seek out activities of choice independently
 - Needs reminders and encouragement to attend activities
 - Needs escort to activities
- Community Involvement
 - Participates in Facility sponsored outings
 - Goes to community events w/ family/friends
 - Goes on outings w/ family/friends when desired
- Three person-centered plans submitted illustrate personal choice and individual needs- one tenant actively volunteers at the local senior center, another tenant maintains close ties to his family and regularly goes on outings with family members.
- The dietary staff prepare meals and tenants can eat three meals each day in the dining room. Additionally, tenants have microwaves and refrigerators in their apartments where they can prepare meals, etc.

The setting facilitates choice regarding services and supports, and who provides them. Individuals have a choice in selecting their service providers, and are not reliant on services from the institution to the exclusion of other community-based options. Individuals can choose to receive services in the community to the same degree as individuals not receiving Medicaid HCBS. [42 CFR § 441.301(c)(4)(v)]

Compliance within Wisconsin State Standards and Regulations

From Contract Between SMA and Each MCO:

VIII. Provider Network,

A. Member Choice

1. Information to Members: The MCO shall inform members about the full range of provider choice available to them, including free choice of medical and other providers that remain fee-for-service for Family Care members, as applicable.

From [IRIS Policy Manual](#)

1.1C Philosophy

Self-direction means people have more choice, control, flexibility, freedom, and responsibility. Within the context of IRIS, self-direction means participants decide upon the following:

- The goods, supports, and services needed to help live the life he or she wants while meeting his or her long-term care outcomes.

- The amount and location that goods, supports, and services are provided, as well as decisions on the provider of these services.

Person-Centered Planning:

- Options of services, providers, and settings, including non-disability specific settings, are offered to participants in all Wisconsin HCBS programs. (Statewide Transition Plan, pg. 87; Summarized from Wis. HCBS waivers, waiver-specific contracts, and policy documents.)
- Residents have the right to “receive adequate and appropriate care within the capacity of the facility” and to “use the licensed, certified or registered provider of health care and pharmacist of the resident’s choice.” ([Wis. Stat. § 50.09](#))

Rights:

- The tenant has the right to choose services and the right to refuse services. (WI Statewide Transition Plan, pg. 84; Summarized from Wis. Admin. Code § DHS 89.34)
- Each tenant has the right to: have choice of his or her physician and other medical providers; and a choice of providers of supportive, personal, and nursing services from providers other than the residential care apartment complex, subject to the requirements of [Wis. Admin. Code § DHS 89.24\(2\)\(b\)](#). (WI Statewide Transition Plan, pg. 85; Summarized from Wis. Admin. Code § [DHS 89.34](#))

Met Unmet Not Applicable

- As stated in the cover letter, “tenants are made aware upon admission of their ability to choose their own medical service providers, which is share in the tenant handbook.
- Additionally, “as a tenant of North Terrace you are free to independently contract for any supportive, personal and nursing services from outside providers.”

The setting optimizes, but does 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. [42 CFR § 441.301(c)(4)(iv)]

Compliance within Wisconsin State Standards and Regulations

Wisconsin Admin. Code ch. DHS 89 is intended “to establish standards and procedures for the certification or registration of residential care apartment complexes in order to promote the health and safety of persons residing in and receiving services from those facilities. This chapter is intended to ensure that all residential care apartment complexes provide each tenant with an independent apartment in a setting that is home-like and residential in character; make available personal, supportive and nursing services that are appropriate to the needs, abilities and preferences of individual tenants; and operate in a manner that protects tenants' rights, respects tenant privacy, enhances tenant self-reliance and supports tenant autonomy in decision-making including the right to accept risk.” ([Wis. Admin. Code § DHS 89.11](#))

Each tenant will have a service agreement based on an assessment conducted with the active participation of the tenant. The service agreement includes the type, amount, and frequency of any services to be provided to the tenant, any additional services that are available, and the activities and social connections the tenant will be assisted in maintaining. (Summarized from [Wis. Admin. Code §§ DHS 89.26 and 89.27](#))

The tenant has the right to choose services and the right to refuse services. The tenant has the right to receive visitors, meet with groups or participate in activities of the tenant’s choice, to receive and send sealed mail, and to have a private phone installed in his or her independent apartment. (Summarized from [Wis. Admin. Code § DHS 89.34](#))

Met Unmet Not Applicable

- Outlined in the *Tenant Handbook*, the tenants have the right to participate in community events at their own discretion.
 - Each tenant has a personal mailbox and a key given for the mailbox.
-

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- As outlined in *Your Rights as an Assisted Living (RCAC) Tenant* each tenant has the following rights: privacy in receiving personal care; privacy in communication-mail; visitors at any time; choice of healthcare provider; personal decorating of their apartment and daily routine.
 - Each tenant has the right to participate in activities inside and outside of their apartments.

Individuals have the freedom and support to control their own schedules and activities. [42 CFR § 441.301(c)(4)(vi)(C)]

Compliance within Wisconsin State Standards and Regulations

Wisconsin Admin. Code ch. DHS 89 is intended “to establish standards and procedures for the certification or registration of residential care apartment complexes in order to promote the health and safety of persons residing in and receiving services from those facilities. This chapter is intended to ensure that all residential care apartment complexes provide each tenant with an independent apartment in a setting that is home-like and residential in character; make available personal, supportive and nursing services that are appropriate to the needs, abilities and preferences of individual tenants; and operate in a manner that protects tenants' rights, respects tenant privacy, enhances tenant self-reliance and supports tenant autonomy in decision-making including the right to accept risk.” ([Wis. Admin. Code § DHS 89.11](#))

Met Unmet Not Applicable

- Tenants can control their own individual schedules. As outlined in *Your rights as an Assisted Living (RCAC) Tenant*, rights are posted in communal areas of the assisted living complex and are available through the ombudsman.
- Tenants may keep a vehicle at North Terrace
- A review of the submitted person-centered plans confirms that each tenant has a plan individually targeted to their own personal needs, wants and choices.

The setting ensures an individual’s rights of privacy, dignity and respect, and freedom from coercion and restraint, [42 CFR § 441.301(c)(4)(iii)].

Compliance within Wisconsin State Standards and Regulations

North Terrace Assisted Living is a residential care apartment complex (RCAC). RCACs are independent apartments that offer additional services, if needed. The services provided to tenants are based on the tenant’s selection from a menu of services and supports, both in the setting and in the community. A tenant may choose to do most activities independently or have more comprehensive assistance.

State-regulated settings are subject to unannounced licensing visits, both in response to complaints and during regular oversight visits. In addition, when HCBS participants are resident in the setting, waiver program care managers are required to have ongoing contact, including face-to-face visits, at which time any member rights issues would be identified and addressed.

Rights: A tenant has the right “to have privacy in his or her independent apartment and when receiving supportive, personal or nursing services.” The tenant has the right “to be free from physical, sexual or emotional abuse, neglect or financial exploitation or misappropriation of property by the facility, its staff or any service provider under contract with the facility” and has the right to be free from coercion. (Statewide Transition Plan, pgs. 85-86; Summarized from Wis. Admin. Code §§ DHS [89.34](#) and [89.36](#))

DHS prohibits the use of restraint or seclusion of waiver participants unless the specific restraint or seclusion intervention has been reviewed and approved by DHS. Use of restraint and/or isolation is monitored by waiver agencies and DHS. Guidelines on restraints and isolation are found at: www.dhs.wisconsin.gov/waivermanual/appndx-r1.pdf and www.dhs.wisconsin.gov/dqa/memos/15-003.pdf (WI Statewide Transition Plan)

Met Unmet Not Applicable

As stated in *Your Rights as an Assisted Living (RCAC) Tenant* – Each tenant has “the right to be free from abuse, discrimination, restraints, neglect, retaliation and exploitation.”

Individuals are able to have visitors of their choosing at any time. [42 CFR § 441.301(c)(4)(vi)(D)]

Compliance within Wisconsin State Standards and Regulations

“Each independent apartment shall be of adequate size and configuration to permit tenants to carry out, with or without assistance, all the functions necessary for independent living, including... entertaining visitors.” (WI Statewide Transition Plan; [Wis. Admin. Code § DHS 89.22](#))

The tenant has the right to receive visitors, meet with groups, or participate in activities of the tenant’s choice, to receive and send sealed mail, and to have a private phone installed in his or her independent apartment. (WI Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 89.34](#))

Met Unmet Not Applicable

Both the *Your Rights as an Assisted Living (RCAC) Tenant* and the *North Terrace Assisted Living Handbook* support that visitors are permitted and tenants may receive visitors at any time.

Individuals have access to food at any time.

Compliance within Wisconsin State Standards and Regulations

A “Residential care apartment complex’ consists of independent apartments, each of which has an individual lockable entrance and exit, a kitchen, including a stove, and individual bathroom, sleeping and living areas” ([Wis. Admin. Code § DHS 89.13](#))

Each independent apartment shall have a kitchen that is “a visually and functionally distinct area within the apartment. The refrigerator shall have a freezer compartment. The sink shall have hot and cold running water.” (Wis. Admin. Code § DHS 89.22)

Met Unmet Not Applicable

Three meals each day are provided to the tenants at North Terrace. Additionally, each apartment has a refrigerator and a microwave. Tenants are also able to order food from restaurants in the community. Snacks are available on a 24/hr. basis at the snack bar.

The living unit is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services. The individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under applicable landlord/tenant laws. The State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord/tenant laws. [42 CFR § 441.301(c)(4)(vi)(A)].

Compliance within Wisconsin State Standards and Regulations

A residential care apartment complex shall enter into a mutually agreed-upon written service agreement with each of its tenants. The agreement shall include the services and the charges for any services in the service agreement and any additional services that are available for purchase. The agreement must also include the grounds for any termination of the agreement. (WI Statewide Transition Plan, pg. 88; Summarized from Wis. Admin. Code § [DHS 89.27](#))

Met Unmet Not Applicable

As outlined in the *North Terrace Assisted Living Handbook*, each tenant has the following rights:

- Access to their individual tenant records and expectation of confidentiality in accordance with state and federal laws.
 - Written notice of changes in rates and service levels
 - The right to know the terms of their assisted living contract, refund policies, rate changes, etc.
 - That the written admission agreement guarantees at a minimum, a 30-day notice of any change in the agreement.
 - Each Wisconsin assisted living setting must assure that each person has the right to his or her records and informed in writing regarding any potential termination of the lease arrangement, etc.
-

Overcoming Institutional Presumption

The setting demonstrated a meaningful physical distinction between the HCBS setting and the institutional setting, including separate entrances and signage, physical divisions, and differences in décor.

Met Unmet Not Applicable

- There is a separate entrance to the North Terrace from the SNF. The CBRF on campus is on the opposite side of the building with offices, therapy areas, business offices, and a lobby.
- There is clear signage inside and outside directing residents and visitors to the North Terrace.
- Upon entering the institutional setting there are two distinct hallways that residents can use. One is toward the SNF and the other toward the RCAC. Photos submitted indicate that there are two separate hallways in addition to signage that designates North Terrace Assisted Living.

Each individual has privacy in their sleeping or living unit.

Compliance within Wisconsin State Standards and Regulations

A “residential care apartment ‘complex’ or ‘facility’... consists of independent apartments, each of which has an individual lockable entrance and exit, a kitchen, including a stove, and individual bathroom, sleeping and living areas...” ([Wis. Admin. Code § DHS 89.13](#))

A tenant has the right “to have privacy in his or her independent apartment and when receiving supportive, personal or nursing services.” The tenant has the right “to be free from physical, sexual or emotional abuse, neglect or financial exploitation or misappropriation of property by the facility, its staff or any service provider under contract with the facility” and has the right to be free from coercion. (Summarized from Wis. Admin. Code §§ DHS 89.34 and 89.36)

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance (DQA) surveyors that the setting (DQA, [F-02138](#), HCBS Compliance Review):

- Provides lockable key entry doors on all resident rooms, and individual keys to all residents.
- Has a policy ensuring that staff uses facility keys to enter a resident’s room only under circumstances agreed upon with the resident.

Met Unmet Not Applicable

North Terrace consists of private apartments, each tenant has keys to their individual units, keys to their mailboxes, and a policy is in place that ensures privacy from the staff.

Individual living units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.

Compliance within Wisconsin State Standards and Regulations

Each independent apartment shall have “an individual lockable entrance and exit. A single door may serve as both entrance and exit. Keys to the door to the independent apartment and to the residential care apartment complex shall be supplied to the tenant.” ([Wis. Admin. Code § DHS 89.22](#))

“‘Individual lockable entrance and exit’ means a door that provides access to an independent apartment and is equipped with an individually keyed lock which is operable from both inside and outside the unit and which the tenant can open, close and lock to ensure privacy.” ([Wis. Admin. Code § DHS 89.13](#))

Locks on living unit doors allow the resident to exercise his or her right to privacy and personal choice. Staff in each residential setting should always knock and receive permission prior to entering a resident’s living space. DHS expects the residential setting to have a policy in place to ensure that staff always knock and receive permission prior to entering a resident’s room or personal living space to respect residents’ rights to privacy. Please refer to DHS’ [Frequently Asked Questions \(FAQs\) about Door Locks in Adult Long-Term Care Residential Settings](#) for additional lock-related information.

Met Unmet Not Applicable

North Terrace consists of private apartments, each tenant has keys to their individual units, keys to their mailboxes, and a policy is in place that ensures privacy from the staff. Staff have access to apartments only at the agreement with the tenant or in the case of an emergency.

Individuals sharing units have a choice of roommates in that setting.

Compliance within Wisconsin State Standards and Regulations

“Multiple occupancy of an independent apartment shall be limited to a spouse or a roommate chosen at the initiative of the tenant.” ([Wis. Admin. Code § DHS 89.22](#))

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance surveyors that residents have choice of roommates (DQA, [F-02138](#), HCBS Compliance Review).

Person-Centered Planning: Family Care Provider Network, I. Access to Providers: “For residential care facilities, evidence of adequate capacity shall include identification of the availability of residential providers offering private rooms, and a process for moving an individual to a private room when one becomes available that is consistent with the member’s preferences.” ([DHS-MCO Contract, Article VIII, I\(6\)d](#))

Met Unmet Not Applicable

Apartments are for one-two person occupancy and are private, residential units.

Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement. [42 CFR § 441.301(c)(4)(vi)(B)(1-3)]

Compliance within Wisconsin State Standards and Regulations

A tenant has the right “to furnish his or her independent apartment and to maintain personal possessions as space permits as long as the tenant does not unreasonably interfere with the other tenants’ choices or endanger the health or safety of the other tenants.” (WI Statewide Transition Plan; [Wis. Admin. Code § DHS 89.34](#))

Met Unmet Not Applicable

North Terrace *Assisted Living Handbook, Resident Service Agreement, Decorating section* states that residents may furnish and decorate their apartment with their own furniture as space permits. Submitted pictures confirm this with holiday decorations, fresh flowers, and comfortable-looking furniture.

The setting is physically accessible to the individual. [42 CFR § 441.301(c)(4)(vi)(E)]

Compliance within State Standards

“Each independent apartment shall be of adequate size and configuration to permit tenants to carry out, with or without assistance, all the functions necessary for independent living, including sleeping; sitting; dressing; personal hygiene; storing, preparing, serving and eating food; storing clothing and other personal possessions; doing personal correspondence and paperwork; and entertaining visitors.” ([Wis. Admin. Code § DHS 89.22](#))

Met Unmet Not Applicable

Built in 1996 and updated in 2011, the RCAC licensed by the State of Wisconsin meets all ADA requirements.

Operational Distinction

The setting demonstrated meaningful operational distinction between the institution and the community-based setting, such as minimal administrative and financial interconnectedness.

Met Unmet Not Applicable

Cover letter submitted confirms that North Terrace is separately managed from the SNF and rehabilitation center. The organizational chart confirms that North Terrace has its own director of administration. Job descriptions for each of the administrators indicate separate reporting responsibilities and scope of services. As stated in the cover letter, “When carrying out operational tasks, employees for North Terrace Assisted Living have their own policies and procedures.”

There is a distinction between staff for the HCBS setting and the institutional setting. Staff working in the HCBS setting receive initial and ongoing training on HCBS settings rule requirements and principles, and person-centered planning.

Met Unmet Not Applicable

- As stated in the cover letter and as part of the review of training materials, staff share orientation training across the settings but there are separate trainings for the RCAC staff.
- A review of the position descriptions indicate that there is distinct staffing requirements and training programs for the RCAC staff apart from the SNF staff. A staffing plan for the RCAC as well as the SNF was submitted for comparison.

DHS Recommendation

DHS finds that [North Terrace Assisted Living](#) possesses the required home and community-based characteristics, is not isolating in nature, and overcomes the presumption of having institutional qualities.

Please note that these findings are preliminary only and must receive final approval from CMS.

In accordance with federal requirements, all compliance results will be made public by DHS. The decision will appear on the subsequent upload of facility information to DHS websites, including the [DQA Provider Search webpage](#) and the provider directories available at the [Consumer Guide to Health Care – Finding and Choosing an Assisted Living Facility webpage](#).

Ongoing Compliance

Wisconsin’s Division of Quality Assurance (DQA) will ensure through ongoing compliance reviews that [North Terrace Assisted Living](#) continues to meet the requirements of the HCBS Settings Rule. The DMS Bureau of Assisted Living (BAL) has incorporated the HCBS settings rule into its current assisted living survey process and activities. ([DQA Implementation of Home and Community-Based Services Settings Rule in Residential Assisted Living Facilities](#))

The Wisconsin Department of Health Services (DHS) and work within the requirements of contracts with DHS certify waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies –. State licensed settings are subject to unannounced licensing visits, both in response to complaints and during regular oversight visits, by the state licensing authority, or by the entity that certified the provider if not regulated by the state. As part of these periodic licensing or certification reviews, the credentialing entity will also review the setting for continued HCBS compliance. Providers will be required to address any HCBS rule deficiencies.

When HCBS participants are resident in the setting, waiver program care managers are required to have ongoing contact, including face-to-face visits, at which time any areas of concern would be identified and addressed. Each participant in a Medicaid home and community-based waiver program is further protected through the state’s long-term care ombudsman program, which has regular access to the assisted living setting. [Wisconsin’s Board on Aging & Long Term Care](#): The Board on Aging and Long Term Care advocates for the interests of Wisconsin’s long-term care consumers, informs those consumers of their rights and

educates the public about health care systems and long-term care. The Board also operates the [Long Term Care Ombudsman](#), and [Volunteer Ombudsman](#) services.

EVIDENTIARY ASSESSMENT AND SUMMARY
Home and Community-Based Services (HCBS) Settings Rule
Heightened Scrutiny Review – Community-Based Residential Facility (CBRF)

Facility Name Northview Heights		Facility Type Community-Based Residential Facility (CBRF)	
Corporate Name (if applicable) Dodge County		License/Certification # 0014709	County Dodge
Facility Address 199 County DF	City Juneau	State WI	Zip Code 53039
Primary Contact Name: Lori Kurutz	Primary Contact Direct Phone (incl. area code) 920-386-4249	Primary Contact Email Address:: lkurutz@co.dodge.wi.us	
Facility Website Address https://www.co.dodge.wi.gov/departments/departments-a-d/clearview/clearview-assisted-living			

Reason for Institutional Presumption

- Settings in a publicly or privately operated facility that provides inpatient institutional treatment. [Clearview Brain Injury Center](#)
- Settings on the grounds of, or adjacent to, a public institution. Name of institution: [Dodge County Human Services](#)
- Settings with the effect of isolating individuals from the broader community of individuals not receiving HCBS waiver services.

The Centers for Medicare and Medicaid Services' (CMS) HCBS settings rule assumes that certain settings are not home and community-based. If a Wisconsin assisted living facility (setting) meets one of the criteria for institutional presumption as defined above, the DHS Division of Medicaid Services (DMS) conducts a heightened scrutiny review.

DMS believes that [Northview Heights](#) has overcome the institutional presumption and meets the criteria of a home and community-based services setting as summarized below.

To reinforce the extent to which Wisconsin's licensing and certification regulations and standards align with and reinforce the HCBS settings rule, the applicable state standard or regulation is included, where applicable, with the compliance review summary below.

Facility Summary:

Northview Heights is a 20-bed community-based residential facility (CBRF) designed to serve adults with dementia, emotional disturbance, traumatic brain injury, physical disabilities, and advanced age. Located in the city of Juneau, Northview Heights is part of the Dodge County Campus including the CBRF, an adult family homes, and a skilled nursing center. Currently there are 20 residents living at Northview Heights, with 16 of the residents supported through the [Family Care](#) Medicaid long-term care program.

The setting is integrated in and supports full access to the greater community [42 CFR § 441.301(c)(4)(i)].

The community considers the setting a part of their community and does not associate the setting with institutional services.

Met Unmet Not Applicable

- *Cover letter:* “Residents utilize the community, library, supermarket, humane society, beauty shops, banks, and are members of local churches. Individuals attend community events that take place in Juneau and the surrounding area.”
- Testimonials and comments submitted confirm that Northview Heights is part of the Juneau community and is considered a great resource. “The commander of the local American Legion, Horicon Post, shared that individuals from Northview Heights regularly attend their events: fish fries, pancake breakfasts and many of the residents have lived in the community for a long time.
- Family members, friends and visitors comment on the home like environment at Northview Heights. Each room is individually decorated, family members furnish the rooms with couches, chairs, TVs, etc.

Individuals, to the extent they desire, have opportunities to participate in typical community life activities outside of the setting.

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning: The plan must be based on an assessment that addresses the person’s “capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known” and “social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs.” (Summarized from [Wis. Admin. Code § DHS 83.35](#))

Program Services: Community activities. The CBRF shall provide information and assistance to facilitate participation in personal and community activities. The CBRF shall develop, update and make available to all residents, monthly schedules and notices of community activities, including costs. ([Wis. Admin. Code § DHS 83.38\(1\)\(d\)](#))

Family and social contacts: The CBRF shall encourage and assist residents in maintaining family and social contacts. (Wis. Admin. Code § DHS 83.38(1)(e))

Met Unmet Not Applicable

- Northview Height’s cover letter illustrates that residents have the freedom to attend activities in the community. “Residents utilize the community library, supermarket and attend local churches.” “Residents that live at Northview Heights have the opportunity to take vocational classes at Green Valley Enterprises and local businesses.”
- Person centered planning for the residents at Northview Heights encourages involvement, where possible, with the family members of every resident. Residents are free to come and go and attend outings in the community; vacation opportunities with family; dining out with friends and family and resident’s families and friends are encouraged to participate in Northview Heights activities both in house and in the greater community.
- Cover letter describes examples of community living:
 - Individuals shop for groceries at the local Piggly Wiggly
 - Haircare is done with individual appointments for beauticians and barber.”

- “One or two recent organized special events were community members putting on a car/motorcycle show at the assisted living facilities.”
- “Different volunteer groups like B.A.R.C.C. (Badgerland Animal Reading and Comfort Companions) bring their dogs to Northview Heights.

Activities are individualized or include more than just setting-based group activities

Met Unmet Not Applicable

- Based on the review of five person-centered plans and information in the cover letter, there is sufficient evidence to support that Northview Heights offers a comprehensive internal and external activity and community resource programs. The planning and availability of activities and opportunities are individually supported for each resident.
- “Individuals attend community events that take place in the rural community of Juneau and the surrounding area. In addition to volunteering, residents at Northview Heights can take vocational classes.”
- A review of a submitted person-centered plan describes a 79-year old resident who “shops at the Dollar Store” every week, as well as getting her hair done each month in Juneau. Family members and/or staff arrange for transportation.
- A review of a person-centered plan also describes a 70-year old male diagnosed with dementia, who functions well on medication, and attends a vocational workshop in Juneau every week.

The setting supports access to community activities through its own transportation or coordination of transportation options.

Met Unmet Not Applicable

- *Service Agreement, Exhibit B*: “Transportation will be arranged by the Assisted Living Facility for appointments, if needed.”
- Transportation Providers in Dodge County policy submitted that provides information on taxi, transit and other resources.
- *Community Involvement Policy and Procedure*: “Residents will be encouraged to assist with planning activities that they would like to attend. Residents will be encouraged to make independent choices about activities.”
- Northview Heights “offers transportation to all scheduled and non-scheduled activities as well as medical appointments. Public transportation is also available if the resident would like to utilize a community service and staff will offer training/assistance to the resident who uses public transportation.”

Individuals, if they choose, have opportunities to seek employment and work in competitive integrated settings.

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning:

The plan must be based on an assessment that addresses the person’s “capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known” and “social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs.” ([WI Statewide Transition Plan](#); Summarized from [Wis. Admin. Code § DHS 83.35](#))

From contract between DHS and specific MCOs:

V. Care Management:

C. Assessment and Member-Centered Planning Process

C.1. Comprehensive Assessment

C.1.(c) Documentation: The comprehensive assessment will include documentation by the IDT staff of:

C.1.(c)(viii) An exploration with the member of the member’s preferences and opportunities for community integration including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community.

C.3. Member-Centered Planning

C.3.(c)(iv)(g) The setting in which the member resides supports integration into 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.

VII. Services

A. General Provisions

1. Comprehensive Service Delivery System

c. Serve to maintain community connections, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, and that are cost effective.

Addendum I

It is the DHS’s “expectation under this contract that benefits will be fully integrated and will afford options that foster opportunities for interaction and integration into 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 while supporting each member’s individual outcomes and recognizing each member’s preferences.”

Met Unmet Not Applicable

Residents at Northview Heights benefit from options for interaction and access to the greater Juneau and Dodge county community. During the initial intake assessment, a new resident is given an opportunity to consider volunteering in the community and some of the residents qualify and enroll in vocational services and workshops.

Individuals are able to control their personal resources.

Compliance within Wisconsin State Standards and Regulations

Every resident in a community-based residential facility has the right to “manage the resident’s own financial affairs, unless the resident delegates, in writing, such responsibility to the facility and the facility accepts the responsibility or unless the resident delegates to someone else of the resident’s choosing and that person accepts the responsibility.” (Statewide Transition Plan; [Wis. Stat. § 50.09](#))

Met Unmet Not Applicable

- *Services Agreement (H) Personal funds*: “Funds not kept in a financial institution are reconciled by staff on a daily basis.” Residents can keep their own funds and/or also bank in the community.
- *Exhibit A (Funds Consent) of the Services Agreement* confirms that the facility can hold up to \$200 cash, and that the resident has access to his/her funds on a 24/7 basis.

Choice, Independence, and Person-Centered Planning

The setting is selected by the individual from among setting options including non-disability specific settings. [42 CFR § 441.301(c)(4)(ii)]

Compliance within Wisconsin State Standards and Regulations

Wisconsin has protections in place for Medicaid waiver participants which ensure they understand their choices. DHS waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are responsible for discussing choice of service settings with the waiver participant and family/guardian to locate the most suitable provider setting, including a discussion of living in a non-disability specific setting. In practice, the waiver agencies are complying with this requirement, and documenting and monitoring the choice of settings in the member-centered plan or IRIS support and service plan, as applicable.

In Wisconsin, the choice of setting requirement is not the initial responsibility of the provider setting. Rather the choice of setting takes place through the person-centered planning process at the waiver agency level. Waiver agencies are certified by DHS and work within the requirements of contracts with DHS. Through ongoing monitoring, Wisconsin will ensure that individuals maintain the right to choose where they reside.

Additionally, Wisconsin has protections in place through *Pre-Admission Consultation (PAC)*: <https://www.dhs.wisconsin.gov/adrc/pros/pac.htm>

“Pre-admission consultation is a service provided by Aging and Disability Resource Centers (ADRCs) to individuals who are in the process of considering or making a decision about the need to move out of his or her home in order to receive the help they need to remain independent and safe. Sometimes people are unaware that there are services and supports that can be provided right in their own home, often making a move unnecessary. Those who want to move into a nursing home or assisted living facility (such as a community based residential facility or residential care apartment complex), can find it difficult to know which facility would be the best for them or a loved one.”

Met Unmet Not Applicable

- A review of person-centered plans confirm that this setting, Northview Heights, was selected from a choice of settings, and that the setting was chosen to provide the resident with “the least restrictive care.”
- Prior to admission, an assessment is conducted that identifies the individual’s needs, abilities and interests, as well as their psychosocial and medical histories.

The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and resources available for room and board. [42 CFR § 441.301(c)(4)(ii)]

Compliance within Wisconsin State Standards and Regulations:

“COMPREHENSIVE INDIVIDUAL SERVICE PLAN Individual service plan review. Annually or when there is a change in a resident's needs, abilities or physical or mental condition, the individual service plan shall be reviewed and revised based on the assessment under sub. (1). All reviews of the individual service plan shall include input from the resident or legal representative, case manager, resident care staff, and other service providers as appropriate.” ([Wis. Admin. Code § DHS 83.35 \(1\)\(d\)](#))

Met Unmet Not Applicable

- The *Program Statement* and *Services Agreement* make clear that Northview Heights Assisted Living “...offers each individual the freedom to live as active lifestyle that they desire and can manage.” Person-centered planning highlights resident choice in dressing, leisure and community activities, transportation, outdoor activities, food, etc.
- Person-centered planning supports that the setting is the individual’s home and should be thought of and supported with a focus on individuality, privacy, needs, likes and preferences.
- The Northview Heights policy manual confirms that each resident is “encouraged to engage in community living, both inside and outside of the facility, to the extent possible. Resident participate in community activities that they choose, are interested in and activities that address the resident’s cognitive, social and psychological functioning, as well as their spiritual needs.”

The setting facilitates choice regarding services and supports, and who provides them. Individuals have a choice in selecting their service providers, and are not reliant on services from the institution to the exclusion of other community-based options. Individuals can choose to receive services in the community to the same degree as individuals not receiving Medicaid HCBS. [42 CFR § 441.301(c)(4)(v)].

Compliance within Wisconsin State Standards and Regulations

Before or at the time of admission, the CBRF shall provide written information regarding services available and the charges for those services to each resident or the resident's legal representative. This information shall include any charges for services not covered by the daily or monthly rate..." (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.29](#))

Person-Centered Planning:

1. "Options of services, providers, and settings, including non-disability specific settings, are offered to participants in all Wisconsin HCBS programs." (WI Statewide Transition Plan; Summarized from Wis. HCBS waivers, waiver-specific contracts, and policy documents.)
2. Residents have the right to "use the licensed, certified or registered provider of health care and pharmacist of the resident's choice." ([Wis. Stat. § 50.09](#))

Met Unmet Not Applicable

- Northview Height's *Policy on Medical Services* confirms that "Individuals are encouraged to retain their current community physician for continuity of care."
- The cover letter outlines that "Individuals choose their own medical providers; have access to local clinics and staff at the facility can assist in helping to obtain nursing and caregiving services." Additionally, residents choose their counselors and see their ministers for guidance and counseling.

The setting optimizes, but does 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. [42 CFR § 441.301(c)(4)(iv)]

Compliance within Wisconsin State Standards and Regulations

Rights: Licensees must protect the civil rights of residents. Residents have the right to make decision relating to care, activities, daily routines, and other aspects of life that enhance the resident's self-reliance and support the resident's autonomy and decision-making. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.32](#))

Person-Centered Planning: The plan must be based on an assessment that addresses the person's capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known, and social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts, and vocational needs. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.35](#))

"The CBRF shall teach residents the necessary skills to achieve and maintain the resident's highest level of functioning." The CBRF shall provide or arrange services adequate to meet the needs of the residents including providing leisure time activities, facilitating participation in community activities, and encouraging and assisting residents in maintaining family and social contacts. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.38](#))

Rights: Residents have the right to make decisions relating to care, activities, daily routines, and other aspects of life that enhance the resident's self-reliance and support the resident's autonomy and decision making, and have the least restrictive conditions necessary to achieve the purposes of the resident's admission. The CBRF may not impose a curfew, rule, or other restriction on a resident's freedom of choice. (Statewide Transition Plan; Summarized from Wis. Admin. Code § DHS 83.32)

Met Unmet Not Applicable

- The *Program Statement and Services Agreement Handbook*, support the right of each resident to enjoy individual choice, autonomy and independence in making choices about their activities, décor, visitors, etc.
- A review of three person-centered plans supported individual choice in activities, hobbies, religious observance, etc. In addition to person-centered plans, each resident has a wellness plan and an activity/recreational plan that assesses and documents interests, activities, involvement, etc.

Individuals have the freedom and support to control their own schedules and activities. [42 CFR § 441.301(c)(4)(vi)(C)]

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning: The plan must be based on an assessment that addresses the person's "capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known" and "social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs." (Statewide Transition Plan, pg. 72; Summarized from Wis. Admin. Code § DHS 83.35)

Rights: Licensees must protect the civil rights of residents. Residents have the right to make decision relating to care, activities, daily routines, and other aspects of life that enhance the resident's self-reliance and support the resident's autonomy and decision-making. (Summarized from Wis. Admin. Code § DHS 83.32)

Met Unmet Not Applicable

- The *Resident Handbook* and *Community Resource Manual* outline and confirm the opportunities for each resident to have choice in their schedules, maintain activities and opportunities in the community, see family and friends when they choose, and make appropriate plans.
- Northview Heights offers a home to each resident, and encourages and supports that each resident has the right to choose when they sleep, have visitors, manage personal funds, and participate in counseling in the community, etc.
- A review of person-centered plans confirmed that the emphasis for each resident is on personal choice, interest, ability, and social and emotional needs.

The setting ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint, [42 CFR § 441.301(c)(4)(iii)]

Compliance within State Standards:

Rights: Residents have the right to be "treated with courtesy, respect and dignity by all employees of the facility and other providers of health care and pharmacists with whom the resident comes in contact." ([Statewide Transition Plan](#), pg. 72; Summarized from [Wis. Stat. § 50.09](#))

Residents must be provided with "physical and emotional privacy in treatment, living arrangements, and in caring for personal needs" including, privacy for visits by spouse or domestic partner, or to share a room with a spouse or domestic partner if both are residents for the same facility; privacy concerning health care; confidentiality of health and personal records; and the right to approve or refuse their release to any individual outside the facility. (Statewide Transition Plan, pg. 72; Summarized from Wis. Stat. § 50.09)

"Any form of coercion to discourage or prevent a resident or the resident's legal representative from exercising any of the rights under this subchapter is prohibited. Any form of retaliation against a resident or the resident's legal representative for exercising any of the rights in this subchapter, or against an employee or any other person who assists a resident or the resident's legal representative in the exercise of any of the resident rights in this subchapter, is prohibited." (Statewide Transition Plan, pg. 72; Wis. [Admin. Code § DHS 83.32](#))

In addition, each resident shall have all of the following rights: freedom from mistreatment; freedom from seclusion; freedom from chemical restraint; and freedom from physical restraints, except upon prior review and approval by DHS upon written authorization from the resident's primary physician or advanced practice nurse prescriber. DHS may place conditions on the use of a restraint to protect the health, safety, welfare, and rights of the resident. (Statewide Transition Plan; Summarized from Wis. Admin. Code § DHS 83.32)

Met Unmet Not Applicable

- The *Services Agreement* addresses and ensures that each resident is treated within the requirements of 42 CFR § 441.301(c)(4)(iii). These requirements are confirmed through staff training and updates, and clearly comply with all applicable federal, state and local laws regarding abuse/neglect. As part of this policy, each resident is encouraged to sign the resident rights protocol that ensures the facility's compliance with applicable statutes.
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- *Section 2, Individual Rights and Responsibilities* acknowledges and confirms that Northview Heights will not discriminate and will comply with applicable state and federal laws with respect to age, race, color, national origin, sex, handicap or disability.

Individuals are able to have visitors of their choosing at any time. [42 CFR § 441.301(c)(4)(vi)(D)]

Compliance within Wisconsin State Standards and Regulations

Rights: Residents have the right to private and unrestricted communications with their family, physician or other medical provider, attorney, and any other person, unless documented as medically contraindicated. The right to private and unrestricted communications includes the right to... reasonable access to a telephone for private communications; and the opportunity for private visits. (WI Statewide Transition Plan; Summarized from Wis. Stat. § 50.09)

Met Unmet Not Applicable

Northview Heights' *Service Agreement, Visiting Hours Section* confirms that "Individuals are able to have visitors at their choosing at any time in a private, unsupervised space."

Individuals have access to food at any time.

Compliance within Wisconsin State Standards and Regulations

The CBRF must provide each resident with palatable food that meets the recommended dietary allowance based on current guidelines, including at least three meals a day and a snack in the evening, or more often based on the resident's dietary needs. If a resident is away during meal time, the CBRF shall offer food to the resident on the resident's return. The CBRF shall make reasonable adjustments to the menu for individual resident likes, habits, customs, condition, and appetites. (Summarized from Wis. Admin. Code § DHS 83.41)

Met Unmet Not Applicable

As part of the CBRF agreement, residents have access to three meals a day in their own dining room. Residents can also have access to snacks 24/7 and may have a refrigerator in their room. Residents are also encouraged to go on outings to restaurants with family and friends.

The living unit is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services:

The individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the applicable landlord/tenant laws.

The State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law. [42 CFR § 441.301(c)(4)(vi)(A)].

Compliance within Wisconsin State Standards and Regulations

"Each resident shall have a written agreement that is signed by and provided to each party. The agreement includes a description of the space to be provided to the resident, the agreed upon rate, a statement of the resident's rights and the terms of termination, including timeframes. The agreement is updated annually." ([WI Statewide Transition Plan](#), pg. 77; [Wis. Admin. Code § DHS 83.29](#))

The agreement must include terms for resident notification to the CBRF of voluntary discharge, and reasons and notice requirements for involuntary discharge or transfer, including transfers within the CBRF. (Summarized from [Wis. Admin. Code § DHS 83.31](#))

Met Unmet Not Applicable

Services Agreement, Termination and Transfers: "Residents may terminate this agreement at any time and the facility may terminate the agreement at any time for the following reasons with 30-day written notice: Transfer or discharge is necessary for the individual's welfare; the health, safety or welfare of any other individual or staff member; individual/party fails to pay fees or charges."

Overcoming Institutional Presumption

The setting demonstrated a meaningful physical distinction between the HCBS setting and the institutional setting, including separate entrances and signage, physical divisions, and differences in décor.

Met Unmet Not Applicable

- Building plans were submitted that confirm that Northview has 20 single occupancy rooms. Northview Heights is has its own private entrance. Photos confirm that the entrance leads only to the Northview Heights residence.
- Photos submitted show that each of the rooms at Northview Heights are private, individually decorated, personally furnished, and have their own private bathroom.
- Photos submitted show that lounge areas, activity areas and kitchen are separate, and that each resident can have individual access to his/her foods and snacks.

Each individual has privacy in their sleeping or living unit.

Compliance within Wisconsin State Standards and Regulations

Residents must be provided with “physical and emotional privacy in treatment, living arrangements, and in caring for personal needs” including, privacy for visits by spouse or domestic partner, or to share a room with a spouse or domestic partner if both are residents for the same facility; privacy concerning health care; confidentiality of health and personal records; and the right to approve or refuse their release to any individual outside the facility. (Statewide Transition Plan; Summarized from Wis. Stat. § 50.09)

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance surveyors that the setting (DQA, [E-02138](#), HCBS Compliance Review):

1. Provides lockable key entry doors on all resident rooms, and individual keys to all residents.
2. Has a policy ensuring that staff uses facility keys to enter a resident’s room only under circumstances agreed upon with the resident.

Met Unmet Not Applicable

The *Key Policy* states that each resident can have a key to their own room to ensure privacy. Staff policy requires that staff ensure privacy by knocking before entering a resident’s room.

Individual living units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.

Compliance within Wisconsin State Standards:

Locks on living unit doors allow the resident to exercise his or her right to privacy and personal choice. Staff in each residential setting should always knock and receive permission prior to entering a resident’s living space. DHS expects the residential setting to have a policy in place to ensure that staff always knock and receive permission prior to entering a resident’s room or personal living space to respect residents’ rights to privacy. Please refer to DHS’ [Frequently Asked Questions \(FAQs\) about Door Locks in Adult Long-Term Care Residential Settings](#) for additional lock-related information.

Met Unmet Not Applicable

Each resident has a key, and the policy includes a statement of resident privacy. “Every staff needs to knock and announce themselves before entering the resident’s living unit.”

Individuals sharing units have a choice of roommates in that setting.

Compliance within Wisconsin State Standards and Regulations

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance surveyors that residents have choice of roommates (DQA, [F-02138](#), HCBS Compliance Review):

Person-Centered Planning: Family Care Provider Network, I. Access to Providers: “For residential care facilities, evidence of adequate capacity shall include identification of the availability of residential providers offering private rooms, and a process for moving an individual to a private room when one becomes available that is consistent with the member’s preferences.” ([DHS-MCO Contract, Article VIII, I\(6\)d](#))

Met Unmet Not Applicable

All assisted living units are single occupancy.

Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement. [42 CFR § 441.301(c)(4)(vi)(B)(1-3)]

Compliance within State Standards:

Every resident in a community-based residential facility shall have the right to retain and use personal clothing and effects and to retain, as space permits, other personal possessions in a reasonably secure manner. (Summarized from Wis. Stat. § 50.09)

Met Unmet Not Applicable

Review of the Northview Heights Service Agreement confirm that each resident can furnish their living units as they so choose. Submitted photos confirmed that each living unit was distinct and furnished by each resident.

The setting is physically accessible to the individual. [42 CFR § 441.301(c)(4)(vi)(E)]

Compliance within State Standards:

The bedroom and congregate dining and living area for any resident requiring a specified level of care and who is blind or not fully ambulatory shall be on the first floor. (Summarized from Wis. Admin. Code § DHS 83.50)

Bedrooms shall be designed and equipped to allow residents to achieve the highest level of independent functioning and shall be fully accessible to the resident. Within the bedroom, each resident shall have, or be provided with a closet or wardrobe with clothes hanging rods and shelves, and drawer space adequate to reasonably meet the needs of the resident. The bedroom shall have adequate accessible space for a resident’s wheelchair or other adaptive or prosthetic equipment. (Summarized from Wis. Admin. Code § DHS 83.54)

Met Unmet Not Applicable

The setting is physically accessible.

Operational Distinction

The setting demonstrated meaningful operational distinction between the institution and the community-based setting, such as minimal administrative and financial interconnectedness.

Met Unmet Not Applicable

- Northview Heights’ budget was submitted and compared to the Clearview (SNF) budget to demonstrate that there is minimal connectedness in financial decision, budgeting, and administrative positions. Northview’s budget is developed as a stand-alone budget.
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- The *Organizational Chart* submitted and demonstrates that Northview Heights has its own staffing, with a separate Director of Residential Living, independent living assistants, activity staff and housekeeping and cooking staff.

There is a distinction between staff for the HCBS setting and the institutional setting. Staff working in the HCBS setting receive initial and ongoing training on HCBS settings rule requirements and principles, and person-centered planning.

Met Unmet Not Applicable

- Documents submitted included Northview Heights training and staffing schedules for the CBRF, SNF and RCAC which clearly indicate that there is distinct staffing for each of the Clearview/Dodge County campus settings.
- Northview Heights *Orientation Checklist* include a written HCBS training curriculum. The tenant of Northview Heights has the right to privacy and autonomy. The tenant must have a setting that is homelike and residential in nature. Services are available to each resident including personal, supportive care and nursing, and are available and planned to meet the individual needs of the tenant. The tenant at Northview Heights Assisted Living occupies a private room and can expect to enjoy all levels of privacy, private living, and community engagement available for each resident. A comprehensive person-centered planning process. Assessment is completed prior to admission and each tenant can expect that the plan will be updated regularly and formally on an annual basis.
- Training curriculum includes HCBS settings training, CBRF annual training, and HCBS client group-specific training.

DHS Recommendation

DHS finds that *Northview Heights* possesses the required home and community-based characteristics, is not institutional in nature, and overcomes the presumption of having institutional qualities.

Please note that these findings are preliminary only and must receive final approval from CMS.

Ongoing Compliance

Wisconsin's Division of Quality Assurance (DQA) will ensure through ongoing compliance reviews that *Northview Heights* continues to meet the requirements of the HCBS Settings Rule. The DMS Bureau of Assisted Living (BAL) has incorporated the HCBS settings rule into its current assisted living survey process and activities. ([DQA Implementation of Home and Community-Based Services Settings Rule in Residential Assisted Living Facilities](#))

Waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are certified by the Wisconsin Department of Health Services (DHS) and work within the requirements of contracts with DHS. State licensed settings are subject to unannounced licensing visits, both in response to complaints and during regular oversight visits, by the state licensing authority, or by the entity that certified the provider if not regulated by the state. As part of these periodic licensing or certification reviews, the credentialing entity will also review the setting for continued HCBS compliance. Providers will be required to address any HCBS rule deficiencies.

When HCBS participants are resident in the setting, waiver program care managers are required to have ongoing contact, including face-to-face visits, at which time any areas of concern would be identified and addressed. Each participant in a Medicaid home and community-based waiver program is further protected through the state's long-term care ombudsman program, which has regular access to the assisted living setting. [Wisconsin's Board on Aging & Long Term Care](#): The Board on Aging and Long Term Care advocates for the interests of Wisconsin's long-term care consumers, informs those consumers of their rights and educates the public about health care systems and long-term care. The Board also operates the [Long Term Care Ombudsman](#), and [Volunteer Ombudsman](#) services.

EVIDENTIARY ASSESSMENT AND SUMMARY
Home and Community-Based Services (HCBS) Settings Rule
Heightened Scrutiny Review – Community-Based Residential Facility (CBRF)

Facility Name Oregon Health LLC		Facility Type Community-Based Residential Facility (CBRF)	
Corporate Name (if applicable) Oregon Health and Rehabilitation Center		License/Certification # 0018237	County Dane
Facility Address 354 Main Street	City Oregon	State WI	Zip Code 53575
Primary Contact Name Gina Griffiths	Primary Contact Direct Phone (include area code) 608-635-5404	Primary Contact Email Address orealfs@gracehc.com	
Facility Website Address https://oregonmanor.biz/			

Reason for Institutional Presumption

- Settings in a publicly or privately operated facility that provides inpatient institutional treatment. Oregon Healthcare and Rehabilitation Center
- Settings on the grounds of, or adjacent to, a public institution. Name of institution: [Click or tap here to enter text.](#)
- Settings with the effect of isolating individuals from the broader community of individuals not receiving HCBS waiver services.

The Centers for Medicare and Medicaid Services' (CMS) HCBS settings rule assumes that certain settings are not home and community-based. If a Wisconsin assisted living facility (setting) meets one of the criteria for institutional presumption as defined above, the DHS Division of Medicaid Services (DMS) conducts a heightened scrutiny review.

DMS believes that [Oregon Healthcare CBRF](#) has overcome the institutional presumption and meets the criteria of a home and community-based services setting as summarized below.

To reinforce the extent to which Wisconsin's licensing and certification regulations and standards align with and reinforce the HCBS settings rule, the applicable state standard or regulation is included, where applicable, with the compliance review summary below.

Facility Summary

Oregon Healthcare, LLC is licensed to operate Oregon Healthcare, a community-based residential facility (CBRF) for 20 residents in Oregon, Wisconsin. Oregon Healthcare provides a wide range of supportive services to frail elderly adults and adults with dementia. Located in Dane County, Wisconsin, Oregon is located about 10 miles from Madison. Residents at the CBRF enjoy many cultural and outdoor activities that are available in the area. Residents at Oregon Healthcare CBRF have the benefit of living in a small town but close to a vibrant city. Prior to 2019, Oregon Healthcare was known as Main Street Quarters, CBRF. Currently there are 20 living units, five residents supported through [Family Care](#) Medicaid long-term care funding.

The setting is integrated in and supports full access to the greater community [42 CFR § 441.301(c)(4)(i)].

The community considers the setting a part of their community and does not associate the setting with institutional services.

Met Unmet Not Applicable

- Prior to COVID-19, Oregon Healthcare conducted monthly open houses for the community to engage with residents and to participate in activities.
- Setting specific document states, “During normal operations, the CBRF welcomes volunteers from various community groups, i.e., churches, pet therapy, dance recitals, scouting organizations, etc.
- Oregon Healthcare has a Facebook page to keep the community informed of activities and information at Oregon Healthcare CBRF.
- Monthly newsletter is posted on the Facebook page for the community.

Individuals, to the extent they desire, have opportunities to participate in typical community life activities outside of the setting.

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning: The plan must be based on an assessment that addresses the person’s “capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known” and “social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs.” (Summarized from [Wis. Admin. Code § DHS 83.35](#))

Program Services: Community activities. The CBRF shall provide information and assistance to facilitate participation in personal and community activities. The CBRF shall develop, update and make available to all residents, monthly schedules and notices of community activities, including costs. ([Wis. Admin. Code § DHS 83.38\(1\)\(d\)](#))

Family and social contacts: The CBRF shall encourage and assist residents in maintaining family and social contacts. (Wis. Admin. Code § DHS 83.38(1)(e))

Met Unmet Not Applicable

- *Resident Rights*: Resident shall have the right to “private and unrestricted communications with the resident’s family.”
- *Resident Rights Policy* confirms that each resident has the right to visit with family and maintain communication. During COVID-19, residents are allowed to visit outside of the facility with their family, but upon return, must quarantine for 14 days.
- During COVID 19, residents have met with family members in front of windows and staff have encouraged family to arrange visits on a regular basis.
- Schedules of services, contained in the Admission Agreement ensures that “The Facility will provide the Resident’s family and friends with opportunities to visit and participate in activities at the Facility.”

Activities are individualized or include more than just setting-based group activities.

Met Unmet Not Applicable

- *Residents Rights, Section K*: Residents “make decisions relating to care, activities, family visits and contact, daily routines and other aspects of life which enhance self-reliance and support the resident’s autonomy and decision making.
- *CBRF Admission Policy* confirms that a pre-admission assessment is conducted for each prospective resident, which includes a recreational, and activity assessment.
- As part of the admission policy, a preliminary ISP is developed which includes a comprehensive social history, family history, past employment, hobbies and interests.

- Activity schedule highlights daily activities including cooking classes, board games, exercise classes, special events, etc. and each resident can choose to participate, if they elect to do so.
- Prior to Covid-19 restrictions, residents at Oregon Healthcare participated in a wide range of community outings including American Players Theatre, University of Wisconsin-Madison, cultural events, local dining and excursions to parks.

The setting supports access to community activities through its own transportation or coordination of transportation options.

Met Unmet Not Applicable

- The CBRF arranges all transportation through a local provider, Capital Express.
- *Admission Agreement, Schedule of Services, Transportation:* “The facility will arrange for transportation for the Resident when needed for medical appointments, work, educational or training programs, and religious services and for a reasonable number of community activities of interest.”

Individuals, if they choose, have opportunities to seek employment and work in competitive integrated settings.

Met Unmet Not Applicable

Although the majority of the residents at Oregon Healthcare are elderly and retired, residents are encouraged to maintain ongoing relationships in the community, including volunteering and employment.

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning:

The plan must be based on an assessment that addresses the person’s “capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known” and “social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs.” ([WI Statewide Transition Plan](#); Summarized from [Wis. Admin. Code § DHS 83.35](#)).

From contract between DHS and specific MCOs:

V. Care Management:

C. Assessment and Member-Centered Planning Process

C.1. Comprehensive Assessment

C.1.(c) Documentation: The comprehensive assessment will include documentation by the IDT staff of:

C.1.(c)(viii) An exploration with the member of the member’s preferences and opportunities for community integration including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community.

C.3. Member-Centered Planning

C.3.(c)(iv)(g) The setting in which the member resides supports integration into 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.

VII. Services

A. General Provisions

1. Comprehensive Service Delivery System

c. Serve to maintain community connections, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, and that are cost effective.

Addendum I

It is the DHS’s “expectation under this contract that benefits will be fully integrated and will afford options that foster opportunities for interaction and integration into 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 while supporting each member’s individual outcomes and recognizing each member’s preferences.”

Met Unmet Not Applicable

Oregon Healthcare residents are involved in the development and ongoing review of member centered plans. Several sections of the person-centered plan focus on outcomes chosen by the member, including where they want to live, employment and educational preferences if any, and if they chose to access and participate in the community. The facility’s ISP process, also including the resident as an integral member of the team, includes sections on family contacts, likes and dislikes, social and leisure needs/preferences.

Individuals are able to control their personal resources.

Compliance within Wisconsin State Standards and Regulations

Every resident in a community-based residential facility has the right to “manage the resident’s own financial affairs, unless the resident delegates, in writing, such responsibility to the facility and the facility accepts the responsibility or unless the resident delegates to someone else of the resident’s choosing and that person accepts the responsibility.” (Statewide Transition Plan; [Wis. Stat. § 50.09](#)).

Met Unmet Not Applicable

Resident Bill of Rights developed under Wisconsin Statutes section 50.09, #3: Every resident of the facility have the right to “Manage their own financial affairs, including personal allowances under state and federal programs, unless the resident delegates, in writing, such responsibility to the Facility or to someone of the resident’s choosing.”

The setting is selected by the individual from among setting options including non-disability specific settings. [42 CFR § 441.301(c)(4)(ii)].

Compliance within Wisconsin State Standards and Regulations

Wisconsin has protections in place for Medicaid waiver participants which ensure they understand their choices. DHS waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are responsible for discussing choice of service settings with the waiver participant and family/guardian to locate the most suitable provider setting, including a discussion of living in a non-disability specific setting. In practice, the waiver agencies are complying with this requirement, and documenting and monitoring the choice of settings in the member-centered plan or IRIS support and service plan, as applicable.

In Wisconsin, the choice of setting requirement is not the initial responsibility of the provider setting. Rather the choice of setting takes place through the person-centered planning process at the waiver agency level. Waiver agencies are certified by DHS and work within the requirements of contracts with DHS. Through ongoing monitoring, Wisconsin will ensure that individuals maintain the right to choose where they reside.

Additionally, Wisconsin has protections in place through *Pre-Admission Consultation (PAC)*: <https://www.dhs.wisconsin.gov/adrc/pros/pac.htm>. “Pre-admission consultation is a service provided by Aging and Disability Resource Centers (ADRCs) to individuals who are in the process of considering or making a decision about the need to move out of his or her home in order to receive the help they need to remain independent and safe. Sometimes people are unaware that there are services and supports that can be provided right in their own home, often making a move unnecessary. Those who want to move into a nursing home or assisted living facility (such as a community based residential facility or residential care apartment complex), can find it difficult to know which facility would be the best for them or a loved one.”

Met Unmet Not Applicable

- *Resident Services Agreement, Exhibit B* confirms that “prior to moving into the facility, the resident shall participate in the Facility’s admission process.”
- As part of the admission procedure, “the resident and the resident’s guardian, family member, etc. if any, shall agree upon the ISP.”
- An assessment, conducted for each prospective resident, confirms that the “Resident shall actively participate in the completion of the assessment.”
- A review of three pre-admission assessments validate that the prospective resident is involved in the assessment and are made aware of services and supports that are available for the placement and additional placements, if any.
- *Transfer and Discharge Policy*: “The resident may request a transfer to another unit within the facility”. If the facility determines the resident needs services that the facility cannot provide, the facility may transfer the resident, with the resident’s full knowledge to another appropriate facility.
- Several sections of the person-centered plan focus on outcomes chosen by the member, including where they want to live, employment and education preferences if any, and if they chose to access and participate in the community. The facility’s ISP process, also including the resident as an integral member of the team, includes sections on family contacts, likes and dislikes, social and leisure needs/preferences. Several ISPs were reviewed.

The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and resources available for room and board. [42 CFR § 441.301(c)(4)(ii)].

Compliance within Wisconsin State Standards and Regulations

“COMPREHENSIVE INDIVIDUAL SERVICE PLAN Individual service plan review. Annually or when there is a change in a resident's needs, abilities or physical or mental condition, the individual service plan shall be reviewed and revised based on the assessment under sub. (1). All reviews of the individual service plan shall include input from the resident or legal representative, case manager, resident care staff, and other service providers as appropriate.” ([Wis. Admin. Code § DHS 83.35 \(1\)\(d\)](#))

Met Unmet Not Applicable

- The *Resident Services Agreement* states that the “resident, resident’s guardian or authorized representative, if any, shall agree upon an Individualized Service Plan.
- Person-centered assessments, conducted prior to admission, include a pre-ISP plan.
- A *Resident Preference Questionnaire*, recorded for each resident, includes the following: Medication preferences, opening mail, communications to family and daily living preferences.
- A review of three person-centered plans included a discussion of where the member chooses to live, current and future preferences. Each resident is asked to confirm their choice of setting and those choices are reviewed on a regular basis.

The setting facilitates choice regarding services and supports, and who provides them. Individuals have a choice in selecting their service providers, and are not reliant on services from the institution to the exclusion of other community-based options. Individuals can choose to receive services in the community to the same degree as individuals not receiving Medicaid HCBS. [42 CFR § 441.301(c)(4)(v)]

Compliance within Wisconsin State Standards and Regulations

Before or at the time of admission, the CBRF shall provide written information regarding services available and the charges for those services to each resident or the resident’s legal representative. This information shall include any charges for services not covered by the daily or monthly rate (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.29](#)).

Person-Centered Planning

- “Options of services, providers, and settings, including non-disability specific settings, are offered to participants in all Wisconsin HCBS programs.” (WI Statewide Transition Plan; Summarized from Wis. HCBS waivers, waiver-specific contracts, and policy documents.)
- Residents have the right to “use the licensed, certified or registered provider of health care and pharmacist of the resident’s choice.” ([Wis. Stat. § 50.09](#))

Met Unmet Not Applicable

- Oregon Health residents have a choice of medical providers and other services providers. The ancillary services election form requests contact information for the primary physician and other providers such as psychiatry, eye care, physical therapy, etc. The resident and family handbook states “If you, or your family members, schedule appointments with dentists, eye doctors or other doctors, please inform the staff ahead of time of the date and time of your appointment and if you need assistance arranging transportation.”
- As part of the admission process, prospective residents are required to submit a list of their healthcare providers.
- In addition, as part of the *Resident Rights Policy, Section J, Treatment Options*, each resident can “Participate in the planning of care and treatment, be fully informed of care and treatment options as well as choice of providers.”

The setting optimizes, but does 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. [42 CFR § 441.301(c)(4)(iv)]

Compliance within Wisconsin State Standards and Regulations

Rights: Licensees must protect the civil rights of residents. Residents have the right to make decision relating to care, activities, daily routines, and other aspects of life that enhance the resident’s self-reliance and support the resident’s autonomy and decision-making. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.32](#)).

Person-Centered Planning: The plan must be based on an assessment that addresses the person’s capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known, and social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts, and vocational needs. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.35](#)).

“The CBRF shall teach residents the necessary skills to achieve and maintain the resident’s highest level of functioning.” The CBRF shall provide or arrange services adequate to meet the needs of the residents including providing leisure time activities, facilitating participation in community activities, and encouraging and assisting residents in maintaining family and social contacts. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.38](#)).

Rights: Residents have the right to make decisions relating to care, activities, daily routines, and other aspects of life that enhance the resident’s self-reliance and support the resident’s autonomy and decision making, and have the least restrictive conditions necessary to achieve the purposes of the resident’s admission. The CBRF may not impose a curfew, rule, or other restriction on a resident’s freedom of choice. (Statewide Transition Plan; Summarized from Wis. Admin. Code § DHS 83.32).

Met Unmet Not Applicable

- Individuals apply to live at Oregon Healthcare based on their need for supportive care in an assisted living setting. Residents are encouraged to continue participation in their community, chosen activities, family visits, volunteering and social engagements. Residents are free to come and go as they please and visitors permitted at any time. A variety of onsite activities are available if the resident chooses to participate.
- *Resident Bill of Rights* affirms that residents can “Meet with, and participate in activities of social, religious, and community groups at the resident’s discretion.”
- Suggested visiting hours are from 10:00 am to 10:00 pm and after hours, a doorbell is engaged to notify staff and gain access.

Individuals have the freedom and support to control their own schedules and activities. [42 CFR § 441.301(c)(4)(vi)(C)]

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning: The plan must be based on an assessment that addresses the person’s “capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known” and “social participation, including interpersonal relationships, communication skills,

leisure time activities, family and community contacts and vocational needs.” (Statewide Transition Plan, pg. 72; Summarized from Wis. Admin. Code § DHS 83.35) Rights: Licensees must protect the civil rights of residents. Residents have the right to make decision relating to care, activities, daily routines, and other aspects of life that enhance the resident’s self-reliance and support the resident’s autonomy and decision-making. (Summarized from Wis. Admin. Code § DHS 83.32)

Met Unmet Not Applicable

- Oregon Healthcare residents are encouraged to continue participation in their community and family functions. The program guide confirms that residents have the “right to private, unrestricted communications and to meet with, and participate in activities of their choosing. Residents may leave with family and friends, or arrange for transportation through Capital Express or local taxi services. Residents are free to come and go as they please and to have visitors at any time.
- A review of sample person-centered plans illustrated that each of the resident’s preferences for their daily activities, routines, are specific to the individual and respected by the staff.

The setting ensures an individual’s rights of privacy, dignity and respect, and freedom from coercion and restraint, [42 CFR § 441.301(c)(4)(iii)].

Compliance within Wisconsin State Standards and Regulations

Rights: Residents have the right to be “treated with courtesy, respect and dignity by all employees of the facility and other providers of health care and pharmacists with whom the resident comes in contact.” ([Statewide Transition Plan](#), pg. 72; Summarized from [Wis. Stat. § 50.09](#)).

Residents must be provided with “physical and emotional privacy in treatment, living arrangements, and in caring for personal needs” including, privacy for visits by spouse or domestic partner, or to share a room with a spouse or domestic partner if both are residents for the same facility; privacy concerning health care; confidentiality of health and personal records; and the right to approve or refuse their release to any individual outside the facility. (Statewide Transition Plan, pg. 72; Summarized from Wis. Stat. § 50.09).

“Any form of coercion to discourage or prevent a resident or the resident’s legal representative from exercising any of the rights under this subchapter is prohibited. Any form of retaliation against a resident or the resident’s legal representative for exercising any of the rights in this subchapter, or against an employee or any other person who assists a resident or the resident’s legal representative in the exercise of any of the resident rights in this subchapter, is prohibited.” (Statewide Transition Plan, pg. 72; Wis. [Admin. Code § DHS 83.32](#)).

In addition, each resident shall have all of the following rights: freedom from mistreatment; freedom from seclusion; freedom from chemical restraint; and freedom from physical restraints, except upon prior review and approval by DHS upon written authorization from the resident’s primary physician or advanced practice nurse prescriber. DHS may place conditions on the use of a restraint to protect the health, safety, welfare, and rights of the resident. (Statewide Transition Plan; Summarized from Wis. Admin. Code § DHS 83.32).

Met Unmet Not Applicable

Resident Rights Policy confirms the following for each resident at Oregon Healthcare:

- “Be free from mental and physical abuse, and be free from chemical and physical restraints”
- “Receive adequate and appropriate care at Oregon Healthcare CBRF”
- “Be free from physical, sexual and mental abuse and neglect, and from financial exploitation and misappropriation of property”
- “Have the least restrictive conditions necessary to achieve the purposes of the resident’s admission”

Individuals are able to have visitors of their choosing at any time. [42 CFR § 441.301(c)(4)(vi)(D)]

Compliance within Wisconsin State Standards and Regulations

Rights: Residents have the right to private and unrestricted communications with their family, physician or other medical provider, attorney, and any other person, unless documented as medically contraindicated. The right to private and unrestricted communications includes the right to reasonable access to a telephone for private communications; and the opportunity for private visits. (WI Statewide Transition Plan; Summarized from Wis. Stat. § 50.09).

Met Unmet Not Applicable

- Under *Resident Rights Policy*, “The CBRF may not impose a curfew, rule or other restriction on a resident’s freedom of choice.
- *Residents Rights Policy, Section a*: “Privacy for visits by spouse or domestic partner is allowed. If both spouses and both domestic partners under Wisconsin Statutes Chapter 770 are residents of the same facility, the spouses or domestic partners shall be permitted to share a room unless medically contraindicated.”
- Privacy concerning healthcare include case discussion consultation. Examination and treatment are confidential.

Individuals have access to food at any time.

Compliance within Wisconsin State Standards and Regulations

The CBRF must provide each resident with palatable food that meets the recommended dietary allowance based on current guidelines, including at least three meals a day and a snack in the evening, or more often based on the resident’s dietary needs. If a resident is away during meal time, the CBRF shall offer food to the resident on the resident’s return. The CBRF shall make reasonable adjustments to the menu for individual resident likes, habits, customs, condition, and appetites. (Summarized from Wis. Admin. Code § DHS 83.41).

Met Unmet Not Applicable

- Oregon Healthcare CBRF *Community Rules, # 9*: “We provide three meals a day plus snacks at any time.”
- Resident’s person-centered plans reflects individual dietary needs and choices.
- Diet modifications and nutritional concerns are documented in each of the resident’s person-centered plans.

The living unit is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services:

- The individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the applicable landlord/tenant laws.
- The State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction’s landlord tenant law. [42 CFR § 441.301(c)(4)(vi)(A)]

Compliance within Wisconsin State Standards and Regulations

“Each resident shall have a written agreement that is signed by and provided to each party. The agreement includes a description of the space to be provided to the resident, the agreed upon rate, a statement of the resident’s rights and the terms of termination, including timeframes. The agreement is updated annually.” ([WI Statewide Transition Plan](#), pg. 77; [Wis. Admin. Code § DHS 83.29](#)).

The agreement must include terms for resident notification to the CBRF of voluntary discharge, and reasons and notice requirements for involuntary discharge or transfer, including transfers within the CBRF. (Summarized from [Wis. Admin. Code § DHS 83.31](#)).

Met Unmet Not Applicable

- *Resident Rights Policy* states “each resident if a request to transfer or discharged be given a reasonable advance notice of any planned transfer or discharge, and an explanation of the need for and alternatives to transfer or discharge.”

- A summary of *Transfers* highlighted in the *Resident Services Agreement* confirms that “The Resident will not be involuntarily transferred except for medical, welfare of other residents or more appropriate level of care.” The facility will make reasonable efforts to provide the Resident with 30 days’ notice of such transfers.”
- If the resident wants to terminate placement, “the resident may terminate the agreement with written notice and the Facility will terminate 30 days after the Facility’s receipt of the Resident’s written notice.”

Overcoming Institutional Presumption

The setting demonstrated a meaningful physical distinction between the HCBS setting and the institutional setting, including separate entrances and signage, physical divisions, and differences in décor.

Met Unmet Not Applicable

Photos of the main entrance confirms that it is accessible without stairs and has automatic doors.

- Photo of separate signage for the CBRF that is different from the SNF.
- Photos of assisted living units show that there is a bedroom, accessible bathroom, kitchen and living room areas. Photos confirm that the living units are homey, furnished with personal belongings and are not institutional with comparison to the SNF.
- The CBRF has common areas including a small group activity area, bulletin boards that announce activities and menus, assisted living program calendars.

Each individual has privacy in their sleeping or living unit.

Compliance within Wisconsin State Standards and Regulations

Residents must be provided with “physical and emotional privacy in treatment, living arrangements, and in caring for personal needs” including, privacy for visits by spouse or domestic partner, or to share a room with a spouse or domestic partner if both are residents for the same facility; privacy concerning health care; confidentiality of health and personal records; and the right to approve or refuse their release to any individual outside the facility. (Statewide Transition Plan; Summarized from Wis. Stat. § 50.09).

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance surveyors that the setting (DQA, [F-02138](#), HCBS Compliance Review):

- Provides lockable key entry doors on all resident rooms, and individual keys to all residents.
- Has a policy ensuring that staff uses facility keys to enter a resident’s room only under circumstances agreed upon with the resident.

Met Unmet Not Applicable

Oregon Healthcare CBRF *Key Policy and Procedure*:

- One key is given to each resident
- Additional keys may be requested for a fee
- Upon termination of residency, return keys to management
- Photos show lockable keys for each of the apartments.
- Privacy for each resident is part of the key policy and procedure. Staff are asked to knock first and ask permission to enter a resident’s room.

Individual living units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.

Compliance within Wisconsin State Standards and Regulations

Locks on living unit doors allow the resident to exercise his or her right to privacy and personal choice. Staff in each residential setting should always knock and receive permission prior to entering a resident's living space. DHS expects the residential setting to have a policy in place to ensure that staff always knock and receive permission prior to entering a resident's room or personal living space to respect residents' rights to privacy. Please refer to DHS' [Frequently Asked Questions \(FAQs\) about Door Locks in Adult Long-Term Care Residential Settings](#) for additional lock-related information.

Met Unmet Not Applicable

Privacy staff policy in place that requires staff to knock and ask permission to enter unless previously given permission by resident or for scheduled maintenance, etc.

Individuals sharing units have a choice of roommates in that setting.

Compliance within Wisconsin State Standards and Regulations

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance surveyors that residents have choice of roommates (DQA, [F-02138](#), HCBS Compliance Review)

Person-Centered Planning: Family Care Provider Network, I. Access to Providers: "For residential care facilities, evidence of adequate capacity shall include identification of the availability of residential providers offering private rooms, and a process for moving an individual to a private room when one becomes available that is consistent with the member's preferences." ([DHS-MCO Contract, Article VIII, I\(6\)d](#))

Met Unmet Not Applicable

All living units are private and there is no policy on roommates. Spouses may visit and stay at the resident's apartment and if both spouses are at the same facility then they can share the private apartment, if appropriate. Domestic partners, under Wisconsin Statutes Chapter 770, are also permitted to share a room unless medically contraindicated, etc.

Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement. [42 CFR § 441.301(c)(4)(vi)(B)(1-3)]

Compliance within Wisconsin State Standards and Regulations

Every resident in a community-based residential facility shall have the right to retain and use personal clothing and effects and to retain, as space permits, other personal possessions in a reasonably secure manner. (Summarized from Wis. Stat. § 50.09)

Met Unmet Not Applicable

- *Resident Rights Policy* confirm that the resident has the right "to retain and use personal clothing and effects as space permits."
- Photos of apartments show ample closet and storage space available for resident's clothing and belongings.
- Residents may furnish apartments with their own beds, couches, etc.
- CBRF rules state "the bathroom has generous floor space and each resident is welcome to bring in additional storage. If you would like to install shelves [sic], we will assist you."

The setting is physically accessible to the individual. [42 CFR § 441.301(c)(4)(vi)(E)]

Compliance within Wisconsin State Standards and Regulations

The bedroom and congregate dining and living area for any resident requiring a specified level of care and who is blind or not fully ambulatory shall be on the first floor. (Summarized from Wis. Admin. Code § DHS 83.50)

Bedrooms shall be designed and equipped to allow residents to achieve the highest level of independent functioning and shall be fully accessible to the resident. Within the bedroom, each resident shall have, or be provided with a closet or wardrobe with clothes hanging rods and shelves, and drawer space adequate to reasonably meet the needs of the resident. The bedroom shall have adequate accessible space for a resident's wheelchair or other adaptive or prosthetic equipment. (Summarized from Wis. Admin. Code § DHS 83.54)

Met Unmet Not Applicable

- Oregon Healthcare was built in the late 1990s, renovated in 2018, and is physically accessible.
 - Documentation including photos of apartments, entrances, walkways, etc. confirm that the facility is handicapped and physically accessible.
-

Operational Distinction

The setting demonstrated meaningful operational distinction between the institution and the community-based setting, such as minimal administrative and financial interconnectedness.

Met Unmet Not Applicable

Oregon Healthcare has a separate line item and allocations budget for expenses that is separate from the SNF. The organizational chart show that there is a CBRF Manager and resident assistants work only at the CBRF. An Administrator for the entire campus works under the regional director of operations. The corporate headquarters for Oregon Healthcare is located in Tennessee. The CBRF director works with the administrator to prepare the budget for the CBRF and the budget is the staff appear on the organizational chart as assigned to either the SNF or the CBRF.

There is a distinction between staff for the HCBS setting and the institutional setting. Staff working in the HCBS setting receive initial and ongoing training on HCBS settings rule requirements and principles, and person-centered planning.

Met Unmet Not Applicable

Oregon Health staff are trained in resident rights, resident grievance procedures, privacy and the door lock policy, and the ISP policy. Ongoing training is completed annually. Monthly staff meetings are held to discuss individual residents, activities, issues, etc. Staff are hired separately for Oregon Healthcare CBRF though some certified resident assistants work an assigned amount of hours at the SNF to ensure ongoing credentials.

DHS Recommendation

Wisconsin can attest that Oregon Healthcare CBRF possesses the required home and community-based characteristics, is not isolating in nature, and overcomes the presumption of having institutional qualities.

Please note that these findings are preliminary only and must receive final approval from CMS.

In accordance with federal requirements, all compliance results will be made public by DHS. The decision will appear on the subsequent upload of facility information to DHS websites, including the [DQA Provider Search webpage](#) and the provider directories available at the [Consumer Guide to Health Care – Finding and Choosing an Assisted Living Facility webpage](#).

Ongoing Compliance

Wisconsin's Division of Quality Assurance (DQA) will ensure through ongoing compliance reviews that [Oregon Healthcare CBRF](#) continues to meet the requirements of the HCBS Settings Rule. The DMS Bureau of Assisted Living (BAL) has incorporated the HCBS settings rule into its current assisted living survey process and activities. ([DQA Implementation of Home and Community-Based Services Settings Rule in Residential Assisted Living Facilities](#))

The Wisconsin Department of Health Services (DHS) and work within the requirements of contracts with DHS certify waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies –. State licensed settings are subject to unannounced licensing visits, both in response to complaints and during regular oversight visits, by the state licensing authority, or by the entity that certified the provider if not regulated by the state. As part of these periodic licensing or certification reviews, the credentialing entity will also review the setting for continued HCBS compliance. Providers will be required to address any HCBS rule deficiencies.

When HCBS participants are resident in the setting, waiver program care managers are required to have ongoing contact, including face-to-face visits, at which time any areas of concern would be identified and addressed. Each participant in a Medicaid home and community-based waiver program is further protected through the state's long-term care ombudsman program, which has regular access to the assisted living setting. [Wisconsin's Board on Aging & Long Term Care](#): The Board on Aging and Long Term Care advocates for the interests of Wisconsin's long-term care consumers, informs those consumers of their rights and educates the public about health care systems and long-term care. The Board also operates the [Long Term Care Ombudsman](#), and [Volunteer Ombudsman](#) services.

EVIDENTIARY ASSESSMENT AND SUMMARY
Home and Community-Based Services (HCBS) Settings Rule
Heightened Scrutiny Review – Community-Based Residential Facility (CBRF)

Facility Name Point Manor Assisted Living		Facility Type Community-Based Residential Facility (CBRF)	
Corporate Name (if applicable) NSH Stevens Point Manor LLC		License/Certification # 0017960	County Portage
Facility Address 1800 Sherman Ave	City Stevens Point	State WI	Zip Code 54481
Primary Contact Name: Daniel Flood	Primary Contact Direct Phone (incl. area code) 715-345-3503	Primary Contact Email Address:: dflood@nshorehc.com	
Facility Website Address https://www.nshorehc.com/locations/point-manor-assisted-living/			

Reason for Institutional Presumption

- Settings in a publicly or privately operated facility that provides inpatient institutional treatment. Name of institution: [Stevens Point Health Services](#)
- Settings in a building on the grounds of, or adjacent to, a public institution. Name of institution:
- Settings with the effect of isolating individuals from the broader community of individuals not receiving HCBS waiver services.

Wisconsin State Standards and Regulations:

The Centers for Medicare and Medicaid Services' (CMS) HCBS settings rule assumes that certain settings are not home and community-based. If a Wisconsin assisted living facility (setting) meets one of the criteria for institutional presumption as defined above, the DHS Division of Medicaid Services (DMS) conducts a heightened scrutiny review.

DMS believes that [Point Manor Assisted Living](#) has overcome the institutional presumption and meets the criteria of a home and community-based services setting as summarized below.

To reinforce the extent to which Wisconsin's licensing and certification regulations and standards align with and reinforce the HCBS settings rule, the applicable state standard or regulation is included, where applicable, with the compliance review summary below

Facility Summary:

Point Manor Assisted Living is located in Stevens Point, Wisconsin. The city was the setting for the “Liv and Maddie” show and boasts the world’s largest trivia contest hosted each April by the University of Wisconsin-Stevens Point (UWSP) with teams competing in an event that has been featured on Jeopardy. The Renewable Energy & Sustainable Living Fair, the world’s largest and longest running renewable energy event, is hosted in nearby Custer. The region has lots of ties to conservation legacy, from the giant iconic ‘Sand County Bench’ on display in the Sculpture Park to the nation's first conservation education major created in 1946, now the College of Natural Resources at UWSP. The Stevens Point Brewery, a local landmark since 1857, provided beer to Union troops during the Civil War and survived prohibition and the oldest farmers market in the state of Wisconsin is still operational in downtown Stevens Point. The region is home to 27 municipalities with a population of over 70,000. Nearly 9,000 students attend UWSP.

Point Manor Assisted Living is part of the Stevens Point Health Services (SPHS) campus offering views of the Wisconsin River, surrounding forests and wetlands, access to a nearby hiking/running trail, and an on-site Bistro. The road winds through a residential area amid thick trees and glimpses of the Wisconsin River to a cul-de-sac consisting of a 60-unit three-floor apartment building. Just across the road is the 26-acre SPHS, consisting of a three floor assisted living complex River View Lodge (RCAC) and a separate building housing the SNF and Point Manor Assisted Living. There is a separate entrance around the back of the building for the CBRF. Located on the first floor of one wing, Point Manor Assisted Living has 27 single units and one double room. The census as of November 2020 was nineteen.

The setting is integrated in and supports full access to the greater community [42 CFR § 441.301(c) (4) (i)].

The community considers the setting a part of their community and does not associate the setting with institutional services.

Met Unmet Not Applicable

The location of the SPHS campus itself is physically part of the residential neighborhood surrounding it and is served by the Stevens Point City Bus. A public hiking/running trail is next to the campus.

Individuals, to the extent they desire, have opportunities to participate in typical community life activities outside of the setting.

Compliance within Wisconsin State Standards and Regulations:

Person-Centered Planning: The plan must be based on an assessment that addresses the person’s “capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known” and “social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs.” (Summarized from [Wis. Admin. Code § DHS 83.35](#))

Program Services: Community activities. The CBRF shall provide information and assistance to facilitate participation in personal and community activities. The CBRF shall develop, update and make available to all residents, monthly schedules and notices of community activities, including costs. ([Wis. Admin. Code § DHS 83.38\(1\)\(d\)](#))

Family and social contacts: The CBRF shall encourage and assist residents in maintaining family and social contacts. (Wis. Admin. Code § DHS 83.38(1)(e))

Met Unmet Not Applicable

Point Manor Assisted Living staff “assist interested residents in planning social and recreational activities, both at Point Manor Assisted Living and away from Point Manor Assisted Living. The resident is welcome to participate in all activities as desired,” as noted in the admission agreement, section G. Both the house rules and the admission agreement encourage off site activity with family and friends as well. The resident rules, #17, states, “The resident has the right and this facility promotes and support the right to make choices about aspects of his/her life in the facility that are significant to the resident including to...

“Interact with persons from the community and participate in community activities both inside and outside the facility.” Shopping, lunch, and participating in family events are typical community activities.

Activities are individualized or include more than just setting-based group activities

Met Unmet Not Applicable

Point Manor Assisted Living staff assist residents in planning social and recreational activities both at Point Manor Assisted Living and away from Point Manor Assisted Living. Activities are a standard agenda item at each monthly resident council meeting. Some are group activities like a Christmas lights tour through the community, attending fairs, and picnics. Residents and families are encouraged to engage in community activities together. The campus is located in a cul-de-sac in a residential area. A step outside and residents, staff, and neighbors enjoy the river, the landscaping and a hiking/running path.

The setting supports access to community activities through its own transportation or coordination of transportation options.

Met Unmet Not Applicable

Point Manor Assisted Living has access to the campus mini-bus/van vehicle for group activities. Plover taxi offers shared ride services and Point Manor Assisted Living collaborates with Point Plus, a specialized door-to-door transportation service available to individuals of all ages living in the City of Stevens Point and the Village of Whiting who qualify under the Americans with Disabilities Act (ADA) guidelines. The campus is on the red line of the Stevens Point City Bus service. All buses are wheelchair accessible and the city offers free training to individuals who wish to learn how to use public transit and become more independent and confident using the bus.

Individuals, if they choose, have opportunities to seek employment and work in competitive integrated settings.

Compliance within Wisconsin State Standards and Regulations:

Person-Centered Planning:

The plan must be based on an assessment that addresses the person’s “capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known” and “social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs.” ([WI Statewide Transition Plan](#); Summarized from [Wis. Admin. Code § DHS 83.35](#))

From contract between DHS and specific MCOs:

V. Care Management:

C. Assessment and Member-Centered Planning Process

C.1. Comprehensive Assessment

C.1.(c) Documentation: The comprehensive assessment will include documentation by the IDT staff of:

C.1.(c)(viii) An exploration with the member of the member’s preferences and opportunities for community integration including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community.

C.3. Member-Centered Planning

C.3.(c)(iv)(g) The setting in which the member resides supports integration into 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.

VII. Services

A. General Provisions

1. Comprehensive Service Delivery System

- c. Serve to maintain community connections, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, and that are cost effective.

Addendum I

It is the DHS's "expectation under this contract that benefits will be fully integrated and will afford options that foster opportunities for interaction and integration into 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 while supporting each member's individual outcomes and recognizing each member's preferences."

Met Unmet Not Applicable

Point Manor Assisted Living residents who are supported with waiver funding are directly involved in the member-centered plan process, which includes discussion of their preferred outcomes including employment and volunteering if they wish. Residents chose their schedules and can come and go as they wish, including employment if they desire.

Individuals are able to control their personal resources.

Compliance within Wisconsin State Standards and Regulations:

Every resident in a community-based residential facility has the right to "manage the resident's own financial affairs, unless the resident delegates, in writing, such responsibility to the facility and the facility accepts the responsibility or unless the resident delegates to someone else of the resident's choosing and that person accepts the responsibility." (Statewide Transition Plan; [Wis. Stat. § 50.09](#))

Met Unmet Not Applicable

The Resident Rights, admission agreement attachment D, provides for residents to manage their own financial affairs and #24, Point Manor Assisted Living does not require deposit of personal funds but residents may choose to do so with written authorization. Resident rights #33: "This facility will manage the resident's deposited funds with the resident's best interests in mind. The resident's money will not be commingled with facility funds. This facility will provide an accounting of the resident's funds quarterly or at the resident's/representative's request." House Rules #6 also states that arrangements may be made with the Executive Director for keeping money and other valuables.

Choice, Independence, and Person-Centered Planning

The setting is selected by the individual from among setting options including non-disability specific settings. [42 CFR § 441.301(c)(4)(ii)]

Compliance within Wisconsin State Standards and Regulations:

Wisconsin has protections in place for Medicaid waiver participants which ensure they understand their choices. DHS waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are responsible for discussing choice of service settings with the waiver participant and family/guardian to locate the most suitable provider setting, including a discussion of living in a non-disability specific setting. In practice, the waiver agencies are complying with this requirement, and documenting and monitoring the choice of settings in the member-centered plan or IRIS support and service plan, as applicable.

In Wisconsin, the choice of setting requirement is not the initial responsibility of the provider setting. Rather the choice of setting takes place through the person-centered planning process at the waiver agency level. Waiver agencies are certified by DHS and work within the requirements of contracts with DHS. Through ongoing monitoring, Wisconsin will ensure that individuals maintain the right to choose where they reside.

Additionally, Wisconsin has protections in place through *Pre-Admission Consultation (PAC)*: <https://www.dhs.wisconsin.gov/adrc/pros/pac.htm>

“Pre-admission consultation is a service provided by Aging and Disability Resource Centers (ADRCs) to individuals who are in the process of considering or making a decision about the need to move out of his or her home in order to receive the help they need to remain independent and safe. Sometimes people are unaware that there are services and supports that can be provided right in their own home, often making a move unnecessary. Those who want to move into a nursing home or assisted living facility (such as a community based residential facility or residential care apartment complex), can find it difficult to know which facility would be the best for them or a loved one.”

Met Unmet Not Applicable

Several member-centered plans were reviewed for Long Term Care Preferences, which is a specific discussion held regularly at the time of plan development and review. One resident said specifically that “... continue living at Point Manor Assisted Living and do what I am able to do for myself.” Other states “I want to have assistance as needed, have help with medical issues from my daughter and Hospice.” In addition, the LTC Outcome for other resident states “. . . will have the supports necessary to continue living in the least restrictive setting possible.”

The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and resources available for room and board. [42 CFR § 441.301(c)(4)(ii)]

Compliance within Wisconsin State Standards and Regulations

“COMPREHENSIVE INDIVIDUAL SERVICE PLAN Individual service plan review. Annually or when there is a change in a resident's needs, abilities or physical or mental condition, the individual service plan shall be reviewed and revised based on the assessment under sub. (1). All reviews of the individual service plan shall include input from the resident or legal representative, case manager, resident care staff, and other service providers as appropriate.” ([Wis. Admin. Code § DHS 83.35 \(1\)\(d\)](#))

Met Unmet Not Applicable

Several member-centered plans were reviewed for long term care preferences, which is a specific discussion held regularly at the time of plan development and review. One resident said specifically that “...Continue living at Point Manor Assisted Living and do what I am able to do for myself.” Other states “I want to have assistance as needed, have help with medical issues from my daughter and Hospice.” In addition, the LTC Outcome for other resident states “. . . will have the supports necessary to continue living in the least restrictive setting possible.” When a member chooses Point Manor Assisted Living, a pre-admission comprehensive assessment is completed with the member in order to establish the initial individual service plan (ISP). The ISP is reviewed again during the first thirty days of residency. ISPs and revised ISPs are developed with and signed by the resident.

The setting facilitates choice regarding services and supports, and who provides them. Individuals have a choice in selecting their service providers, and are not reliant on services from the institution to the exclusion of other community-based options. Individuals can choose to receive services in the community to the same degree as individuals not receiving Medicaid HCBS. [42 CFR § 441.301(c)(4)(v)].

Compliance within Wisconsin State Standards and Regulations

Before or at the time of admission, the CBRF shall provide written information regarding services available and the charges for those services to each resident or the resident's legal representative. This information shall include any charges for services not covered by the daily or monthly rate...” (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.29](#))

Person-Centered Planning:

- “Options of services, providers, and settings, including non-disability specific settings, are offered to participants in all Wisconsin HCBS programs.” (WI Statewide Transition Plan; Summarized from Wis. HCBS waivers, waiver-specific contracts, and policy documents.)
- Residents have the right to “use the licensed, certified or registered provider of health care and pharmacist of the resident's choice.” ([Wis. Stat. § 50.09](#))

Met Unmet Not Applicable

Resident Rights section S provides that residents “exercise complete control of providers of physical and mental health care and pharmacist.” Under #17, the resident has the right and this facility promotes and support the right to make choices about aspects of his/her life in the facility that are significant to the resident including: to choose “healthcare and providers consistent with the resident’s interests, assessments, plan of care and other choices.” In addition, #25 states, “The resident has the right to choose a personal attending physician. The facility will ensure that each resident is informed of the name, specialty, and way of contacting the physician and other primary care professionals responsible for the resident’s care.”

The setting optimizes, but does 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. [42 CFR § 441.301(c)(4)(iv)]

Compliance within Wisconsin State Standards and Regulations

Rights: Licensees must protect the civil rights of residents. Residents have the right to make decision relating to care, activities, daily routines, and other aspects of life that enhance the resident’s self-reliance and support the resident’s autonomy and decision-making. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.32](#))

Person-Centered Planning: The plan must be based on an assessment that addresses the person’s capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known, and social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts, and vocational needs. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.35](#))

“The CBRF shall teach residents the necessary skills to achieve and maintain the resident’s highest level of functioning.” The CBRF shall provide or arrange services adequate to meet the needs of the residents including providing leisure time activities, facilitating participation in community activities, and encouraging and assisting residents in maintaining family and social contacts. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.38](#))

Rights: Residents have the right to make decisions relating to care, activities, daily routines, and other aspects of life that enhance the resident’s self-reliance and support the resident’s autonomy and decision making, and have the least restrictive conditions necessary to achieve the purposes of the resident’s admission. The CBRF may not impose a curfew, rule, or other restriction on a resident’s freedom of choice. (Statewide Transition Plan; Summarized from Wis. Admin. Code § DHS 83.32)

Met Unmet Not Applicable

The Point Manor Assisted Living resident rights policy states “Residents do not leave their individual personalities or basic human rights behind when they move to a long-term care facility. This facility will treat each resident with respect and dignity and care for each resident in a manner and in an environment that promotes maintenance or enhancement of his/her quality of life and recognizes each resident’s individuality. The resident has the right and this facility promotes and support the right to make choices about aspects of his/her life in the facility that are significant to the resident...” The admission agreement, section G, states that “Point Manor will assist interested residents in planning social and recreational activities, both at Point Manor and away from Point Manor. The resident is welcome to participate in all activities as desired.”

Individuals have the freedom and support to control their own schedules and activities. [42 CFR § 441.301(c)(4)(vi)(C)]

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning: The plan must be based on an assessment that addresses the person’s “capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known” and “social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs.” (Statewide Transition Plan, pg. 72; Summarized from Wis. Admin. Code § DHS 83.35)

Rights: Licensees must protect the civil rights of residents. Residents have the right to make decision relating to care, activities, daily routines, and other aspects of life that enhance the resident's self-reliance and support the resident's autonomy and decision-making. (Summarized from Wis. Admin. Code § DHS 83.32)

Met Unmet Not Applicable

The Point Manor Assisted Living website states, "Our approach is to ensure maximum independence and offer reliable support in an atmosphere you can call home." The individual service plans discuss resident preferences and encourage residents to choose their schedules and activities. Section G of the admission agreement states "Activities . . . Point Manor Assisted Living will assist interested residents in planning social and recreational activities both at Point Manor and away from Point Manor. The resident is welcome to participate in all activities as desired."

The setting ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint, [42 CFR § 441.301(c)(4)(iii)]

Compliance within State Standards:

Rights: Residents have the right to be "treated with courtesy, respect and dignity by all employees of the facility and other providers of health care and pharmacists with whom the resident comes in contact." ([Statewide Transition Plan](#), pg. 72; Summarized from [Wis. Stat. § 50.09](#))

Residents must be provided with "physical and emotional privacy in treatment, living arrangements, and in caring for personal needs" including, privacy for visits by spouse or domestic partner, or to share a room with a spouse or domestic partner if both are residents for the same facility; privacy concerning health care; confidentiality of health and personal records; and the right to approve or refuse their release to any individual outside the facility. (Statewide Transition Plan, pg. 72; Summarized from Wis. Stat. § 50.09)

"Any form of coercion to discourage or prevent a resident or the resident's legal representative from exercising any of the rights under this subchapter is prohibited. Any form of retaliation against a resident or the resident's legal representative for exercising any of the rights in this subchapter, or against an employee or any other person who assists a resident or the resident's legal representative in the exercise of any of the resident rights in this subchapter, is prohibited." (Statewide Transition Plan, pg. 72; Wis. [Admin. Code § DHS 83.32](#))

In addition, each resident shall have all of the following rights: freedom from mistreatment; freedom from seclusion; freedom from chemical restraint; and freedom from physical restraints, except upon prior review and approval by DHS upon written authorization from the resident's primary physician or advanced practice nurse prescriber. DHS may place conditions on the use of a restraint to protect the health, safety, welfare, and rights of the resident. (Statewide Transition Plan; Summarized from Wis. Admin. Code § DHS 83.32)

Met Unmet Not Applicable

Point Manor Assisted Living "treats each resident with respect and dignity and cares for each resident in a manner and in an environment that promotes maintenance or enhancement of his/her quality of life and recognizes each resident's individuality," as stated in the resident's rights policy. In addition, "The resident has the right to be free of interference, coercion, discrimination and reprisal from the facility in exercising his/her rights and to be supported by the facility in the exercise of those rights."

Individuals are able to have visitors of their choosing at any time. [42 CFR § 441.301(c)(4)(vi)(D)]

Compliance within Wisconsin State Standards and Regulations

Rights: Residents have the right to private and unrestricted communications with their family, physician or other medical provider, attorney, and any other person, unless documented as medically contraindicated. The right to private and unrestricted communications includes the right to... reasonable access to a telephone for private communications; and the opportunity for private visits. (WI Statewide Transition Plan; Summarized from Wis. Stat. § 50.09)

Met Unmet Not Applicable

Recommended visiting hours at Point Manor Assisted Living are 9:00 am – 9:00 pm but these hours are guidelines only. The resident rights policy provides that residents have private visitors, adequate time, and private space for visitors. Visitation away from the setting is encouraged as well. Overnight guests are welcome but must be registered with the executive director or designee.

Individuals have access to food at any time.

Compliance within Wisconsin State Standards and Regulations

The CBRF must provide each resident with palatable food that meets the recommended dietary allowance based on current guidelines, including at least three meals a day and a snack in the evening, or more often based on the resident's dietary needs. If a resident is away during meal time, the CBRF shall offer food to the resident on the resident's return. The CBRF shall make reasonable adjustments to the menu for individual resident likes, habits, customs, condition, and appetites. (Summarized from Wis. Admin. Code § DHS 83.41)

Met Unmet Not Applicable

Point Manor Assisted Living has a kitchen area available for residents' use 24/7. The Bistro has a kitchen with a stove, refrigerator, freezer, and drink dispenser. Resident rooms also have a microwave, a small refrigerator and cabinets for storage.

Individuals occupy the setting under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity. [42 CFR § 441.301(c)(4)(vi)(A)]

Compliance within Wisconsin State Standards and Regulations

"Each resident shall have a written agreement that is signed by and provided to each party. The agreement includes a description of the space to be provided to the resident, the agreed upon rate, a statement of the resident's rights and the terms of termination, including timeframes. The agreement is updated annually." ([WI Statewide Transition Plan](#), pg. 77; [Wis. Admin. Code § DHS 83.29](#))

The agreement must include terms for resident notification to the CBRF of voluntary discharge, and reasons and notice requirements for involuntary discharge or transfer, including transfers within the CBRF. (WI Statewide Transition Plan, pg. 77; Summarized from Wis. Admin. Code § DHS 83.31)
State licensed settings are subject to unannounced licensing visits, both in response to complaints and during regular oversight visits. Through ongoing HCBS monitoring, Wisconsin will ensure that individuals maintain the right to make such choices while residing in this state-licensed community-based residential facility. Additionally, the state's long-term care ombudsman program has regular access to the setting.

Met Unmet Not Applicable

The Point Manor Assisted Living admission agreement delineates monthly charges, bed hold fees and other charges. Either party, in compliance with Wis. Admin., delineates discharge and termination procedures including a 30-day notice. Code § DHS 83.31.

Overcoming Institutional Presumption

The setting demonstrated a meaningful physical distinction between the HCBS setting and the institutional setting, including separate entrances and signage, physical divisions, and differences in décor.

Met Unmet Not Applicable

Point Manor Assisted Living has its own entrance and signage, both inside and outside. The SNF is located on the floor above the SNF and entrance to the SNF is through the elevator.

Each individual has privacy in their sleeping or living unit.

Compliance within Wisconsin State Standards and Regulations

Residents must be provided with “physical and emotional privacy in treatment, living arrangements, and in caring for personal needs” including, privacy for visits by spouse or domestic partner, or to share a room with a spouse or domestic partner if both are residents for the same facility; privacy concerning health care; confidentiality of health and personal records; and the right to approve or refuse their release to any individual outside the facility. (Statewide Transition Plan; Summarized from Wis. Stat. § 50.09)

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance surveyors that the setting (DQA, [F-02138](#), HCBS Compliance Review):

- Provides lockable key entry doors on all resident rooms, and individual keys to all residents.
- Has a policy ensuring that staff uses facility keys to enter a resident’s room only under circumstances agreed upon with the resident.

Met Unmet Not Applicable

Point Manor Assisted Living has 27 single units and one double room. The census as of November 2020 was 19.

Individual living units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.

Compliance within Wisconsin State Standards and Regulations

Locks on living unit doors allow the resident to exercise his or her right to privacy and personal choice. Staff in each residential setting should always knock and receive permission prior to entering a resident’s living space. DHS expects the residential setting to have a policy in place to ensure that staff always knock and receive permission prior to entering a resident’s room or personal living space to respect residents’ rights to privacy. Please refer to DHS’ [Frequently Asked Questions \(FAQs\) about Door Locks in Adult Long-Term Care Residential Settings](#) for additional lock-related information.

Met Unmet Not Applicable

Point Manor Assisted Living submitted a picture of resident room with lock. The setting was found compliant with the HCBS locks requirements as per a Wisconsin Division of Quality Assurance survey on 11/2/2020.

Individuals sharing units have a choice of roommates in that setting.

Compliance within Wisconsin State Standards and Regulations

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance surveyors that residents have choice of roommates (DQA, [F-02138](#), HCBS Compliance Review):

Person-Centered Planning: Family Care Provider Network, I. Access to Providers: “For residential care facilities, evidence of adequate capacity shall include identification of the availability of residential providers offering private rooms, and a process for moving an individual to a private room when one becomes available that is consistent with the member’s preferences.” ([DHS-MCO Contract, Article VIII, I\(6\)d](#))

Met Unmet Not Applicable

The Point Manor Assisted Living resident rights policy provides that the resident has the right to receive written notice before the resident’s room or roommate in the facility is changed, including the reason for the change. There is only one shared room in the facility and the census is not at capacity.

Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement. [42 CFR § 441.301(c)(4)(vi)(B)(1-3)]

Compliance within Wisconsin State Standards and Regulations

Every resident in a community-based residential facility shall have the right to retain and use personal clothing and effects and to retain, as space permits, other personal possessions in a reasonably secure manner. (Summarized from Wis. Stat. § 50.09)

Met Unmet Not Applicable

The resident rights policy provides that residents “retain and use personal clothing and effects and to retain, as space permits, other personal possessions.” The move-in checklist includes furniture, bed, dresser, nightstand, recliner/chair, lamps, TV and TV stand, end tables and dining table if desired. Pictures show a Point Manor unit with personal furnishings and possession and a SNF room with standard institutional furniture.

The setting is physically accessible to the individual. [42 CFR § 441.301(c)(4)(vi)(E)]

Compliance within Wisconsin State Standards and Regulations

The bedroom and congregate dining and living area for any resident requiring a specified level of care and who is blind or not fully ambulatory shall be on the first floor. (Summarized from Wis. Admin. Code § DHS 83.50)

Bedrooms shall be designed and equipped to allow residents to achieve the highest level of independent functioning and shall be fully accessible to the resident. Within the bedroom, each resident shall have, or be provided with a closet or wardrobe with clothes hanging rods and shelves, and drawer space adequate to reasonably meet the needs of the resident. The bedroom shall have adequate accessible space for a resident’s wheelchair or other adaptive or prosthetic equipment. (Summarized from Wis. Admin. Code § DHS 83.54)

Met Unmet Not Applicable

Point Manor is physically accessible.

The living unit is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services:

- The individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the applicable landlord/tenant laws.
- The State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction’s landlord tenant law. [42 CFR § 441.301(c)(4)(vi)(A)].

Compliance within Wisconsin State Standards and Regulations

“Each resident shall have a written agreement that is signed by and provided to each party. The agreement includes a description of the space to be provided to the resident, the agreed upon rate, a statement of the resident’s rights and the terms of termination, including timeframes. The agreement is updated annually.” ([Wis. Admin. Code § DHS 83.29](#))

The agreement must include terms for resident notification to the CBRF of voluntary discharge, and reasons and notice requirements for involuntary discharge or transfer, including transfers within the CBRF. (Summarized from [Wis. Admin. Code § DHS 83.31](#))

The Point Manor Assisted Living Admission Agreement meets the licensing requirements of WI Admin Code DHS 83.29. Residents must meet and agree to the Admission/Retention and Discharge Criteria.

Operational Distinction

The setting demonstrated meaningful operational distinction between the institution and the community-based setting, such as minimal administrative and financial interconnectedness.

Met Unmet Not Applicable

At Point Manor Assisted Living, there is a Director of Nursing Services for the CBRF and the RCAC, and a different Director of Nursing Services for the SNF. The executive director oversees only the Point Manor Assisted Living CBRF and the RCAC. (The RCAC is located in a separate building and not subject to heightened scrutiny.) The LLC for the CBRF is NSH Stevens Point Manor LLC; for the SNF it is NSH Stevens Point LLC.

There is a distinction between staff for the HCBS setting and the institutional setting. Staff working in the HCBS setting receive initial and ongoing training on HCBS settings rule requirements and principles, and person-centered planning.

Met Unmet Not Applicable

Staff at Point Manor Assisted Living are cross-trained with staff at the RCAC. According to the executive director who oversees the CBRF and the RCAC, “having staff at the RCAC with CBRF certifications just seems to make us a stronger team.” He further stated he does not recall a time when SNF staff worked at the CBRF or the RCAC.

DHS Recommendation

Wisconsin can attest that [Point Manor Assisted Living](#) possesses the required home and community-based characteristics, is not isolating in nature, and overcomes the presumption of having institutional qualities.

Please note that these findings are preliminary only and must receive final approval from CMS.

In accordance with federal requirements, all compliance results will be made public by DHS. The decision will appear on the subsequent upload of facility information to DHS websites, including the [DQA Provider Search webpage](#) and the provider directories available at the [Consumer Guide to Health Care – Finding and Choosing an Assisted Living Facility webpage](#).

Ongoing Compliance

Wisconsin’s Division of Quality Assurance (DQA) will ensure through ongoing compliance reviews that [Point Manor Assisted Living](#) continues to meet the requirements of the HCBS Settings Rule. The DMS Bureau of Assisted Living (BAL) has incorporated the HCBS settings rule into its current assisted living survey process and activities. ([DQA Implementation of Home and Community-Based Services Settings Rule in Residential Assisted Living Facilities](#))

The Wisconsin Department of Health Services (DHS) and work within the requirements of contracts with DHS certify waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies –. State licensed settings are subject to unannounced licensing visits, both in response to complaints and during regular oversight visits, by the state licensing authority, or by the entity that certified the provider if not regulated by the state. As part of these periodic licensing or certification reviews, the credentialing entity will also review the setting for continued HCBS compliance. Providers will be required to address any HCBS rule deficiencies.

When HCBS participants are resident in the setting, waiver program care managers are required to have ongoing contact, including face-to-face visits, at which time any areas of concern would be identified and addressed. Each participant in a Medicaid home and community-based waiver program is further protected through the state’s long-term care ombudsman program, which has regular access to the assisted living setting. [Wisconsin’s Board on Aging & Long Term Care](#): The Board on Aging and Long Term Care advocates for the interests of Wisconsin’s long-term care consumers, informs those consumers of their rights and educates the public about health care systems and long-term care. The Board also operates the [Long Term Care Ombudsman](#), and [Volunteer Ombudsman](#) services.

EVIDENTIARY ASSESSMENT AND SUMMARY
Home and Community-Based Services (HCBS) Settings Rule
Heightened Scrutiny Review – Community-Based Residential Facility (CBRF)

Facility Name Pride TLC Therapy and Living Campus		Facility Type Community-Based Residential Facility (CBRF)	
Corporate Name (if applicable) First Phoenix-Weston LLC		License/Certification # 0014504	County Marathon
Facility Address 7805 Birch St.	City Weston	State WI	Zip Code 54476
Primary Contact Name: Sally Conway	Primary Contact Direct Phone (incl. area code) 715-298-3833	Primary Contact Email Address:: sconway@westonrecoveryandrehab.com	
Facility Website Address https://pridetlc.com/			

Reason for Institutional Presumption

- Settings in a publicly or privately operated facility that provides inpatient institutional treatment. Name of institution: Pride TLC Therapy and Living Campus
- Settings in a building on the grounds of, or adjacent to, a public institution. Name of institution: [Pride TLC Therapy and Living Campus](#)
- Settings with the effect of isolating individuals from the broader community of individuals not receiving HCBS waiver services.

The Centers for Medicare and Medicaid Services' (CMS) HCBS settings rule assumes that certain settings are not home and community-based. If a Wisconsin assisted living facility (setting) meets one of the criteria for institutional presumption as defined above, the DHS Division of Medicaid Services (DMS) conducts a heightened scrutiny review.

DMS believes that [Pride TLC Therapy and Living Campus](#) has overcome the institutional presumption and meets the criteria of a home and community-based services setting as summarized below.

To reinforce the extent to which Wisconsin's licensing and certification regulations and standards align with and reinforce the HCBS settings rule, the applicable state standard or regulation is included, where applicable, with the compliance review summary below.

Facility Summary:

Pride TLC Therapy and Living Campus is located in the village of Weston in central Wisconsin, south of Wausau just off Interstate 29. The campus is less than ½ mile from the Marshfield Medical Center St Clare's Hospital. The villages of Weston, Hatley, Rothschild, and Kronenwetter, the towns of Ringle and Easton, and the city of Schofield are served by the D.C. Everest school district. The school district is named for the successful manager and businessman of the local paper mill industry, David Clark Everest. The area is nestled along the Wisconsin River and continues to be viable part of the logging and paper manufacturing industries. Nearby Wausau is home to about 38,000 residents and provides all the amenities of urban life within just a few miles. One fascinating fact is that just

west of Wausau, a thirty minute ride from Pride TLC Therapy and Living Campus, is the geographical site 45°N meets 90°W (45°N 90°W), which is exactly halfway between the equator and the north pole and a quarter of the way around the world from the prime meridian.

The Pride TLC Therapy and Living Campus was built 8 years ago in a rural area but has continued to urbanize since. There is talk of plans to expand farmland immediately west of the campus with a box store. Currently, shopping and dining out activities sponsored by the facility support local businesses, but some recreational activities are held in Wausau. The 5 ½ acre campus provides walking areas and outdoor activities including resident vegetable and flower gardens. Residents typically chose to live at Pride TLC Therapy and Living Campus at least two years prior to needing financial assistance. Forty single units and 10 double units provide residence for 60 people. Currently 13 residents are supported through Wisconsin’s Medicaid HCBS Family Care program. From the website <https://pridetlc.com/assistedliving/> “For our long-term residents who call our campus home, we offer a more independent, community-based lifestyle in our assisted living facility. Our amenity-rich environment includes a theater, hair salon, bakery, pub, exercise gym, chapel, all along a corridor designed to mimic a typical 60’s street view.”

The setting is integrated in and supports full access to the greater community [42 CFR § 441.301(c)(4)(i)].

The community considers the setting a part of their community and does not associate the setting with institutional services.

Met Unmet Not Applicable

- The Admission Agreement for Pride TLC Therapy and Living Campus states that the setting “...Agrees to optimize the Resident’s autonomy and independence through their ability to make choices about their daily schedule, activities, meals and opportunities to participate in the community to the extent they desire.”
- The program statement states that “Leisure time services will be provided and arranged as indicated by the needs and interest of the resident... and include community activities such as movies, picnics and bus rides.
- A staff member provides essential transportation to meet the resident’s needs as reasonable and possible, such as church and medical appointments.
- Residents are encouraged to have contacts and socialization with family, friends, and other residents.
- One testimonial describes a resident finally be able to go golfing after a serious medical condition requiring intubation. While residents go offsite anytime they wish, facility sponsored community activities include shopping, restaurant meals, bingo at the local Labor Temple, music in downtown Wausau, and during the summer, Music in the Park in nearby Mosinee.

Individuals, to the extent they desire, have opportunities to participate in typical community life activities outside of the setting.

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning: The plan must be based on an assessment that addresses the person’s “capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known” and “social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs.” (Summarized from [Wis. Admin. Code § DHS 83.35](#))

Program Services: Community activities. The CBRF shall provide information and assistance to facilitate participation in personal and community activities. The CBRF shall develop, update and make available to all residents, monthly schedules and notices of community activities, including costs. ([Wis. Admin. Code § DHS 83.38\(1\)\(d\)](#))

Family and social contacts: The CBRF shall encourage and assist residents in maintaining family and social contacts. (Wis. Admin. Code § DHS 83.38(1)(e))

Met Unmet Not Applicable

From the Admission Agreement, Pride TLC Therapy and Living Campus “agrees to optimize the Resident’s autonomy and independence through their ability to make choices about their daily schedule, activities, meals and opportunities to participate in the community to the extent they desire.” Ongoing community activities include weekly shopping trips including the seasonal farmers market, dinner outings, bimonthly bingo at the community Labor Temple, monthly music in Wausau, Music in the Park at Mosinee during the summer months, and the winter wonderland light display in Marshfield every December. Residents and families are encouraged to be involved in outings, such as sporting events, birthday parties, baby showers, etc. as they would if they lived in their own home. Some of the most popular community events are area high school football games, dance or piano recitals, theater productions, hockey games, and Country Club outings. Residents are encouraged to participate in activities of choice and one testimonial commented on a golfing outing.

Activities are individualized or include more than just setting-based group activities

Met Unmet Not Applicable

The Pride TLC Therapy and Living campus admission agreement and program statement stress resident autonomy and independence, encouraging residents to enjoy activities in the community with friends and family. Residents can leave and return to the setting whenever they wish. From the Admission Agreement, Pride TLC Therapy and Living Campus “agrees to optimize the Resident’s autonomy and independence through their ability to make choices about their daily schedule, activities, meals and opportunities to participate in the community to the extent they desire.” The program statement provides that the facility maintains a person-centered philosophy for development of individual service plans, to include ‘My Story’ which details the resident’s social history and allows the direct care team to communicate with the resident information that is pertinent and relative to that individual.”

The setting supports access to community activities through its own transportation or coordination of transportation options.

Met Unmet Not Applicable

Several taxi and ride-sharing services are available to residents at Pride TLC Therapy and Living Campus. Taxi services are available throughout Marathon county. Some companies have specialized mobility vehicles with wheel chair accessibility. Pride TLC Therapy and Living Campus has two facility vehicles. One is wheel chair accessible and the other is an SUV-type vehicle. For larger group activities, buses are rented. Parking is available onsite for residents’ vehicles. As stated in the Program Goals, coordination of transportation and medical services is provided.

Individuals, if they choose, have opportunities to seek employment and work in competitive integrated settings.

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning:

The plan must be based on an assessment that addresses the person’s “capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known” and “social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs.” ([WI Statewide Transition Plan](#); Summarized from [Wis. Admin. Code § DHS 83.35](#))

From contract between DHS and specific MCOs:

V. Care Management:

C. Assessment and Member-Centered Planning Process

C.1. Comprehensive Assessment

C.1.(c) Documentation: The comprehensive assessment will include documentation by the IDT staff of:

C.1.(c)(viii) An exploration with the member of the member’s preferences and opportunities for community integration including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community.

C.3. Member-Centered Planning

C.3.(c)(iv)(g) The setting in which the member resides supports integration into 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.

VII. Services

A. General Provisions

1. Comprehensive Service Delivery System

c. Serve to maintain community connections, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, and that are cost effective.

Addendum I

It is the DHS’s “expectation under this contract that benefits will be fully integrated and will afford options that foster opportunities for interaction and integration into 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 while supporting each member’s individual outcomes and recognizing each member’s preferences.”

Met Unmet Not Applicable

The Pride TLC Therapy and Living Campus resident rights/bill of rights policy description states these rights include the resident’s right to “work or not work” and “residents have autonomy and choice, to the maximum extent possible, about how they wish to live their everyday lives and receive care. The facility will support and encourage resident participation in meeting care plan goals.”

Individuals are able to control their personal resources.

Compliance within Wisconsin State Standards and Regulations

Every resident in a community-based residential facility has the right to “manage the resident’s own financial affairs, unless the resident delegates, in writing, such responsibility to the facility and the facility accepts the responsibility or unless the resident delegates to someone else of the resident’s choosing and that person accepts the responsibility.” (Statewide Transition Plan; [Wis. Stat. § 50.09](#))

Met Unmet Not Applicable

Upon request, Pride TLC Therapy and Living Campus can provide assistance with money management. Residents are not required to deposit their funds with the facility. If they chose to do so, the Access to Funds policy provides for obtaining personal funds 24/7. Funds are held in a locked box in the medication room, which is also locked. Only the nurse on duty has access to the medication room. Since residents have access to the nurse 24/7, they can request funds at any time. An accounting or tracking sheet is kept with the lock box and the nurse who distributes any funds tracks the disbursement on the accounting sheet. If funds are withdrawn or deposited, the tracking sheet is shared with the business office who has oversight of the funds. Copies of the daily tracking sheets are kept on file. Pride TLC Therapy and Living Campus residents also have the option to retain their own funds. A locked drawer is provided upon request.

Choice, Independence, and Person-Centered Planning

The setting is selected by the individual from among setting options including non-disability specific settings. [42 CFR § 441.301(c)(4)(ii)]

Compliance within Wisconsin State Standards and Regulations

Wisconsin has protections in place for Medicaid waiver participants which ensure they understand their choices. DHS waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are responsible for discussing choice of service settings with the waiver participant and family/guardian to locate the most suitable provider setting, including a discussion of living in a non-disability specific

setting. In practice, the waiver agencies are complying with this requirement, and documenting and monitoring the choice of settings in the member-centered plan or IRIS support and service plan, as applicable.

In Wisconsin, the choice of setting requirement is not the initial responsibility of the provider setting. Rather the choice of setting takes place through the person-centered planning process at the waiver agency level. Waiver agencies are certified by DHS and work within the requirements of contracts with DHS. Through ongoing monitoring, Wisconsin will ensure that individuals maintain the right to choose where they reside.

Additionally, Wisconsin has protections in place through *Pre-Admission Consultation (PAC)*: <https://www.dhs.wisconsin.gov/adrc/pros/pac.htm>
“Pre-admission consultation is a service provided by Aging and Disability Resource Centers (ADRCs) to individuals who are in the process of considering or making a decision about the need to move out of his or her home in order to receive the help they need to remain independent and safe. Sometimes people are unaware that there are services and supports that can be provided right in their own home, often making a move unnecessary. Those who want to move into a nursing home or assisted living facility (such as a community based residential facility or residential care apartment complex), can find it difficult to know which facility would be the best for them or a loved one.”

Met Unmet Not Applicable

- Residents at Pride TLC Therapy and Living Campus have lived there for at least two years prior to applying for Medicaid. In the Admission Agreement, it is stated in #15 “The Resident or Responsible Party must be able to present evidence of enough funds to pay for two years or more of monthly expenses.”
- All family care residents are offered the following:
 - Remain in a private room with a private pay enhancement (based on the rate that is agreed upon by the MCO);
 - Remain at Pride TLC and Living Campus in a semi-private room;
 - Move to an alternative location of their choice. The 13 MCO residents are NOT in all in semi-private rooms. There are several that stay in a private room with a private pay enhancement. There are two that have roommates that just want to have a roommate and not have a private room. MCO member-centered plans include the statement that both residents are roommates of their own choice and free will.

The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and resources available for room and board. [42 CFR § 441.301(c)(4)(ii)]

Compliance within Wisconsin State Standards and Regulations

“COMPREHENSIVE INDIVIDUAL SERVICE PLAN Individual service plan review. Annually or when there is a change in a resident's needs, abilities or physical or mental condition, the individual service plan shall be reviewed and revised based on the assessment under sub. (1). All reviews of the individual service plan shall include input from the resident or legal representative, case manager, resident care staff, and other service providers as appropriate.” ([Wis. Admin. Code § DHS 83.35 \(1\)\(d\)](#))

Met Unmet Not Applicable

From the Admission Agreement, Pride TLC Therapy and Living Campus “agrees to optimize the Resident’s autonomy and independence through their ability to make choices about their daily schedule, activities, meals and opportunities to participate in the community to the extent they desire.” The program statement provides that the facility maintains a person-centered philosophy for development of individual service plans, to include ‘My Story’ which details the resident’s social history and allows the direct care team to communicate with the resident information that is pertinent and relative to that individual.” Some examples:

- “When considering where to live, my wife lived here for a while before I decided to move in with her.” ISP #1
- “When deciding where I wanted to live, I was already familiar with Pride from my stays in the past in the Rehab department.” ISP #3

- “Something that was important to me when I was looking for a place to live was to still be near family so they could visit. The other things was to be able to have some privacy, yet still be able to participate in activities if I decided I wanted to.” ISP #5
- “. . . The care I receive and services that are available, such as therapy are important to me in remaining at Pride. That is why this setting, Pride TLC Therapy and Living Campus CBRF, is my setting of choice.” MCO ISP #1.
- “One thing that is important to me in looking for a place to live was having a place that had a lot of activities during the day. I spent time in rehab at Pride... that’s why this setting at Pride TLC CBRF is my setting of choice.

The setting facilitates choice regarding services and supports, and who provides them. Individuals have a choice in selecting their service providers, and are not reliant on services from the institution to the exclusion of other community-based options. Individuals can choose to receive services in the community to the same degree as individuals not receiving Medicaid HCBS. [42 CFR § 441.301(c)(4)(v)].

Compliance within State Standards:

Before or at the time of admission, the CBRF shall provide written information regarding services available and the charges for those services to each resident or the resident’s legal representative. This information shall include any charges for services not covered by the daily or monthly rate...” (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.29](#))

Person-Centered Planning:

- “Options of services, providers, and settings, including non-disability specific settings, are offered to participants in all Wisconsin HCBS programs.” (WI Statewide Transition Plan; Summarized from Wis. HCBS waivers, waiver-specific contracts, and policy documents.)
- Residents have the right to “use the licensed, certified or registered provider of health care and pharmacist of the resident’s choice.” ([Wis. Stat. § 50.09](#))

Met Unmet Not Applicable

The Pride TLC Therapy and Living Campus Resident Rights/Bill of Rights provides choice of medical and other service providers. The primary care provider is listed on the resident information sheet. Other documents state that staff assist in helping residents find providers and assist in setting up appointments and transportation if necessary if requested. The program statement also discusses choice of medical, pharmacy and other services.

The setting optimizes, but does 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. [42 CFR § 441.301(c)(4)(iv)]

Compliance within Wisconsin State Standards and Regulations

Rights: Licensees must protect the civil rights of residents. Residents have the right to make decision relating to care, activities, daily routines, and other aspects of life that enhance the resident’s self-reliance and support the resident’s autonomy and decision-making. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.32](#))

Person-Centered Planning: The plan must be based on an assessment that addresses the person’s capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known, and social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts, and vocational needs. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.35](#))

“The CBRF shall teach residents the necessary skills to achieve and maintain the resident’s highest level of functioning.” The CBRF shall provide or arrange services adequate to meet the needs of the residents including providing leisure time activities, facilitating participation in community activities, and encouraging and assisting residents in maintaining family and social contacts. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.38](#))

Rights: Residents have the right to make decisions relating to care, activities, daily routines, and other aspects of life that enhance the resident’s self-reliance and support the resident’s autonomy and decision making, and have the least restrictive conditions necessary to achieve the purposes of the resident’s

admission. The CBRF may not impose a curfew, rule, or other restriction on a resident's freedom of choice. (Statewide Transition Plan; Summarized from Wis. Admin. Code § DHS 83.32)

Met Unmet Not Applicable

From the Admission Agreement, Pride TLC Therapy and Living Campus “agrees to optimize the Resident’s autonomy and independence through their ability to make choices about their daily schedule, activities, meals and opportunities to participate in the community to the extent they desire.” The Resident Rights document provides for self-direction and “Opportunities to make decisions relating to care, activities and other aspects of life in the CBRF. No curfew, rule or other restrictions on the resident’s freedom of choice shall be imposed unless specifically identified in the Pride TLC Therapy and Living Campus program statement or the resident’s individual service plan or admission agreement” And the facility staff “shall help any resident who expresses a preference for more independent living to contact any agency needed to arrange for it.”

Individuals have the freedom and support to control their own schedules and activities. [42 CFR § 441.301(c)(4)(vi)(C)]

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning: The plan must be based on an assessment that addresses the person’s “capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known” and “social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs.” (Statewide Transition Plan, pg. 72; Summarized from Wis. Admin. Code § DHS 83.35)

Rights: Licensees must protect the civil rights of residents. Residents have the right to make decision relating to care, activities, daily routines, and other aspects of life that enhance the resident’s self-reliance and support the resident’s autonomy and decision-making. (Summarized from Wis. Admin. Code § DHS 83.32)

Met Unmet Not Applicable

From the Pride TLC Therapy and Living Campus Admission Agreement, Pride “agrees to optimize the Resident’s autonomy and independence through their ability to make choices about their daily schedule, activities, meals and opportunities to participate in the community to the extent they desire.” The Resident Rights document also provides that residents have choice and make their own decisions relating to activities, care, and other aspects of daily life. The Pride TLC Therapy and Living Campus resident rights/bill of rights policy description states these rights include that “residents have autonomy and choice, to the maximum extent possible, about how they wish to live their everyday lives and receive care. The facility will support and encourage resident participation in meeting care plan goals.”

The setting ensures an individual’s rights of privacy, dignity and respect, and freedom from coercion and restraint, [42 CFR § 441.301(c)(4)(iii)]

Compliance within Wisconsin State Standards and Regulations

Rights: Residents have the right to be “treated with courtesy, respect and dignity by all employees of the facility and other providers of health care and pharmacists with whom the resident comes in contact.” ([Statewide Transition Plan](#), pg. 72; Summarized from [Wis. Stat. § 50.09](#))

Residents must be provided with “physical and emotional privacy in treatment, living arrangements, and in caring for personal needs” including, privacy for visits by spouse or domestic partner, or to share a room with a spouse or domestic partner if both are residents for the same facility; privacy concerning health care; confidentiality of health and personal records; and the right to approve or refuse their release to any individual outside the facility. (Statewide Transition Plan, pg. 72; Summarized from Wis. Stat. § 50.09)

“Any form of coercion to discourage or prevent a resident or the resident's legal representative from exercising any of the rights under this subchapter is prohibited. Any form of retaliation against a resident or the resident's legal representative for exercising any of the rights in this subchapter, or against an

employee or any other person who assists a resident or the resident's legal representative in the exercise of any of the resident rights in this subchapter, is prohibited." (Statewide Transition Plan, pg. 72; Wis. [Admin. Code § DHS 83.32](#))

In addition, each resident shall have all of the following rights: freedom from mistreatment; freedom from seclusion; freedom from chemical restraint; and freedom from physical restraints, except upon prior review and approval by DHS upon written authorization from the resident's primary physician or advanced practice nurse prescriber. DHS may place conditions on the use of a restraint to protect the health, safety, welfare, and rights of the resident. (Statewide Transition Plan; Summarized from Wis. Admin. Code § DHS 83.32)

Met Unmet Not Applicable

The Pride TLC Therapy and Living Campus Resident Rights policy addresses and ensures each of the requirements of 42 CFR § 441.301(c)(4)(iii).

Individuals are able to have visitors of their choosing at any time. [42 CFR § 441.301(c)(4)(vi)(D)]

Compliance within Wisconsin State Standards and Regulations

Rights: Residents have the right to private and unrestricted communications with their family, physician or other medical provider, attorney, and any other person, unless documented as medically contraindicated. The right to private and unrestricted communications includes the right to... reasonable access to a telephone for private communications; and the opportunity for private visits. (WI Statewide Transition Plan; Summarized from Wis. Stat. § 50.09)

Met Unmet Not Applicable

The Pride TLC Therapy and Living Campus Visitation Policy confirms the rights of residents to have privacy in visiting and to have visitors at any time. Residents may have visitors in their rooms and common areas are also available for visiting. The Resident Rights/Bill of Rights ensures that the facility may not restrict, limit, or otherwise deny visitation privileges. House Rule #5 states that residents may have overnight guests with prior authorization.

Individuals have access to food at any time.

Compliance within Wisconsin State Standards and Regulations

The CBRF must provide each resident with palatable food that meets the recommended dietary allowance based on current guidelines, including at least three meals a day and a snack in the evening, or more often based on the resident's dietary needs. If a resident is away during meal time, the CBRF shall offer food to the resident on the resident's return. The CBRF shall make reasonable adjustments to the menu for individual resident likes, habits, customs, condition, and appetites. (Summarized from Wis. Admin. Code § DHS 83.41)

Met Unmet Not Applicable

Pride TLC Therapy and Living Campus provides three meals each day and snacks are available "around the clock." Each resident unit has a kitchenette area with a microwave and refrigerator.

Individuals occupy the setting under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity. [42 CFR § 441.301(c)(4)(vi)(A)]

Compliance within Wisconsin State Standards and Regulations

"Each resident shall have a written agreement that is signed by and provided to each party. The agreement includes a description of the space to be provided to the resident, the agreed upon rate, a statement of the resident's rights and the terms of termination, including timeframes. The agreement is updated annually." ([WI Statewide Transition Plan](#), pg. 77; [Wis. Admin. Code § DHS 83.29](#))

The agreement must include terms for resident notification to the CBRF of voluntary discharge, and reasons and notice requirements for involuntary discharge or transfer, including transfers within the CBRF. (WI Statewide Transition Plan, pg. 77; Summarized from Wis. Admin. Code § DHS 83.31)
State licensed settings are subject to unannounced licensing visits, both in response to complaints and during regular oversight visits. Through ongoing HCBS monitoring, Wisconsin will ensure that individuals maintain the right to make such choices while residing in this state-licensed community-based residential facility. Additionally, the state's long-term care ombudsman program has regular access to the setting.

Met Unmet Not Applicable

The Pride TLC Therapy and Living Campus Admission Agreement meets the licensing requirements of WI Admin Code DHS 83.29. Residents and the facility representative sign the Admission Agreement.

Overcoming Institutional Presumption

The setting demonstrated a meaningful physical distinction between the HCBS setting and the institutional setting, including separate entrances and signage, physical divisions, and differences in décor.

Met Unmet Not Applicable

The virtual tour on the website of Pride TLC and Living Campus shows the décor and personal furnishings in the CBRF and a rehab room located in the SNF. Pride TLC Therapy and Living Campus encourage residents to use their own furniture and belongings as they wish.

Each individual has privacy in their sleeping or living unit.

Compliance within Wisconsin State Standards and Regulations

Residents must be provided with “physical and emotional privacy in treatment, living arrangements, and in caring for personal needs” including, privacy for visits by spouse or domestic partner, or to share a room with a spouse or domestic partner if both are residents for the same facility; privacy concerning health care; confidentiality of health and personal records; and the right to approve or refuse their release to any individual outside the facility. (Statewide Transition Plan; Summarized from Wis. Stat. § 50.09)

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance surveyors that the setting (DQA, [E-02138](#), HCBS Compliance Review):

- Provides lockable key entry doors on all resident rooms, and individual keys to all residents.
- Has a policy ensuring that staff uses facility keys to enter a resident's room only under circumstances agreed upon with the resident.

Met Unmet Not Applicable

The Policy Door Locks on Resident/Client Bedroom Doors provides that locks are standard on all bedrooms in the CBRF and residents have control of their privacy and “have the option to lock their bedroom door from the inside or outside.” The Pride TLC Therapy and Living Campus resident rights/bill of rights policy description states these rights include the resident's right to “share a room with a spouse if that is mutually agreeable” and “residents have autonomy and choice, to the maximum extent possible, about how they wish to live their everyday lives and receive care. The facility will support and encourage resident participation in meeting care plan goals.”

Individual living units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.

Compliance within Wisconsin State Standards

Locks on living unit doors allow the resident to exercise his or her right to privacy and personal choice. Staff in each residential setting should always knock and receive permission prior to entering a resident's living space. DHS expects the residential setting to have a policy in place to ensure that staff always knock and receive permission prior to entering a resident's room or personal living space to respect residents' rights to privacy. Please refer to DHS' [Frequently Asked Questions \(FAQs\) about Door Locks in Adult Long-Term Care Residential Settings](#) for additional lock-related information.

Met Unmet Not Applicable

The Pride TLC Therapy and Living Campus Policy Door Locks on Resident/Client Bedroom Doors provides that locks are standard on all bedrooms in the CBRF and residents have control of their privacy and “have the option to lock their bedroom door from the inside or outside.” Policies and agreements with each resident provide for staff to have access to a key in the event of an emergency. Staff are trained on not entering a resident’s room until they have knocked and have been invited into the room by the resident. For care residents in a semi-private room the unit is considered one sleeping unit and the room is considered one unit with a door that locks. The room does have drawers/cupboards that lock for personal items that need to be stored and secured under lock and key for each resident in the shared unit.

Individuals sharing units have a choice of roommates in that setting.

Compliance within Wisconsin State Standards and Regulations

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance surveyors that residents have choice of roommates (DQA, [F-02138](#), HCBS Compliance Review):

Person-Centered Planning: Family Care Provider Network, I. Access to Providers: “For residential care facilities, evidence of adequate capacity shall include identification of the availability of residential providers offering private rooms, and a process for moving an individual to a private room when one becomes available that is consistent with the member’s preferences.” ([DHS-MCO Contract, Article VIII, I\(6\)d](#))

Met Unmet Not Applicable

The Pride TLC Therapy and Living Campus resident rights/bill of rights policy description states these rights include the resident’s right to “share a room with a spouse if that is mutually agreeable”

Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement. [42 CFR § 441.301(c)(4)(vi)(B)(1-3)]

Compliance within Wisconsin State Standards and Regulations

Every resident in a community-based residential facility shall have the right to retain and use personal clothing and effects and to retain, as space permits, other personal possessions in a reasonably secure manner. (Summarized from Wis. Stat. § 50.09)

Met Unmet Not Applicable

Pride TLC Therapy and Living Campus House Rules, Admission Agreement and Appendix, and Resident Rights documents along with the website virtual tour attest to the HCBS requirement that individuals have the freedom to furnish and decorate their units.

The setting is physically accessible to the individual. [42 CFR § 441.301(c)(4)(vi)(E)]

Compliance within Wisconsin State Standards and Regulations

The bedroom and congregate dining and living area for any resident requiring a specified level of care and who is blind or not fully ambulatory shall be on the first floor. (Summarized from Wis. Admin. Code § DHS 83.50)

Bedrooms shall be designed and equipped to allow residents to achieve the highest level of independent functioning and shall be fully accessible to the resident. Within the bedroom, each resident shall have, or be provided with a closet or wardrobe with clothes hanging rods and shelves, and drawer space

adequate to reasonably meet the needs of the resident. The bedroom shall have adequate accessible space for a resident's wheelchair or other adaptive or prosthetic equipment. (Summarized from Wis. Admin. Code § DHS 83.54)

Met Unmet Not Applicable

Pride TLC Therapy and Living Campus is eight years old and was built according to required accessibility standards. Pictures were submitted showing automatic and accessible doors within the facility. The House Rules states residents may operate motorized scooters.

The living unit is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services:

- The individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the applicable landlord/tenant laws.
- The State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law. [42 CFR § 441.301(c)(4)(vi)(A)].

Compliance within Wisconsin State Standards and Regulations:

"Each resident shall have a written agreement that is signed by and provided to each party. The agreement includes a description of the space to be provided to the resident, the agreed upon rate, a statement of the resident's rights and the terms of termination, including timeframes. The agreement is updated annually." ([Wis. Admin. Code § DHS 83.29](#))

The agreement must include terms for resident notification to the CBRF of voluntary discharge, and reasons and notice requirements for involuntary discharge or transfer, including transfers within the CBRF. (Summarized from [Wis. Admin. Code § DHS 83.31](#))

Met Unmet Not Applicable

The Pride TLC Therapy and Living Campus Admission Agreement meets the licensing requirements of WI Admin Code DHS 83.29. Residents must meet and agree to the Admission/Retention and Discharge Criteria.

Operational Distinction

The setting demonstrated meaningful operational distinction between the institution and the community-based setting, such as minimal administrative and financial interconnectedness.

Met Unmet Not Applicable

- Documents submitted state accounts for all business transitions are separated and allocated according to square footage. Shared staff for example is 69% CBRF and 33% SNF. Lines of business are clearly defined in the reporting structure to DHS, CMS and the IRS.
- Operational distinction was also evidenced through separate financial forms for the skilled nursing facility and Pride TLC Therapy and Living Campus.

There is a distinction between staff for the HCBS setting and the institutional setting. Staff working in the HCBS setting receive initial and ongoing training on HCBS settings rule requirements and principles, and person-centered planning.

Met Unmet Not Applicable

Pride TLC Therapy and Living Campus CNS staff are not regularly scheduled in both the CBRF and the SNF. At the time of hire, staff have a master schedule in one entity only. The only time there is crossover is when there is a critical staffing need. Staff are cross-trained as necessary.

DHS Recommendation

Wisconsin can attest that Pride TLC Therapy and Living Campus is a home and community-based setting, is not isolating in nature, and has overcome the initial institutional presumption.

Please note that these findings are preliminary only and must receive final approval from CMS.

In accordance with federal requirements, all compliance results will be made public by DHS. The decision will appear on the subsequent upload of facility information to DHS websites, including the [DQA Provider Search webpage](#) and the provider directories available at the [Consumer Guide to Health Care – Finding and Choosing an Assisted Living Facility webpage](#).

Ongoing Compliance

Wisconsin's Division of Quality Assurance (DQA) will ensure through ongoing compliance reviews that [Pride TLC Therapy and Living Campus](#) continues to meet the requirements of the HCBS Settings Rule. The DMS Bureau of Assisted Living (BAL) has incorporated the HCBS settings rule into its current assisted living survey process and activities. ([DQA Implementation of Home and Community-Based Services Settings Rule in Residential Assisted Living Facilities](#))

Waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are certified by the Wisconsin Department of Health Services (DHS) and work within the requirements of contracts with DHS. State licensed settings are subject to unannounced licensing visits, both in response to complaints and during regular oversight visits, by the state licensing authority, or by the entity that certified the provider if not regulated by the state. As part of these periodic licensing or certification reviews, the credentialing entity will also review the setting for continued HCBS compliance. Providers will be required to address any HCBS rule deficiencies.

When HCBS participants are resident in the setting, waiver program care managers are required to have ongoing contact, including face-to-face visits, at which time any areas of concern would be identified and addressed. Each participant in a Medicaid home and community-based waiver program is further protected through the state's long-term care ombudsman program, which has regular access to the assisted living setting. [Wisconsin's Board on Aging & Long Term Care](#): The Board on Aging and Long Term Care advocates for the interests of Wisconsin's long-term care consumers, informs those consumers of their rights and educates the public about health care systems and long-term care. The Board also operates the [Long Term Care Ombudsman](#), and [Volunteer Ombudsman](#) services.

EVIDENTIARY ASSESSMENT AND SUMMARY
Home and Community-Based Services (HCBS) Settings Rule
Heightened Scrutiny Review – Residential Care Apartment Complex (RCAC)

Facility Name Renaissance Appleton		Facility Type Residential Care Apartment Complex (RCAC)	
Corporate Name (if applicable) Rennes Health & Rehabilitation Center-Appleton		License/Certification # 0013364	County Outagamie
Facility Address 301 East Florida Drive	City Appleton	State WI	Zip Code 54911
Primary Contact Name Nicole Riesterer	Primary Contact Direct Phone (include area code) 920-380-1100	Primary Contact Email Address nicoler@rennesgroup.com	
Facility Website Address https://www.rennesgroup.com/assisted-living/appleton-fox-cities			

Reason for Institutional Presumption

- Settings in a publicly or privately operated facility that provides inpatient institutional treatment. [Rennes Health and Rehab Center-Appleton](#)
- Settings on the grounds of, or adjacent to, a public institution. Name of institution:
- Settings with the effect of isolating individuals from the broader community of individuals not receiving HCBS waiver services.

The Centers for Medicare and Medicaid Services' (CMS) HCBS settings rule assumes that certain settings are not home and community-based. If a Wisconsin assisted living facility (setting) meets one of the criteria for institutional presumption as defined above, the DHS Division of Medicaid Services (DMS) conducts a heightened scrutiny review.

DMS believes that [Renaissance Appleton](#) has overcome the institutional presumption and meets the criteria of a home and community-based services setting as summarized below.

To reinforce the extent to which Wisconsin's licensing and certification regulations and standards align with and reinforce the HCBS settings rule, the applicable state standard or regulation is included, where applicable, with the compliance review summary below.

Facility Summary

Appleton is a city of 74,000 spanning parts of three counties but mostly in Outagamie County, Wisconsin. One of the Fox Cities, it is situated on the Fox River, 30 miles southwest of Green Bay and 100 miles north of Milwaukee and is the county seat of Outagamie County. Appleton serves as the heart of the Fox River Valley, and is home to the Fox Cities Performing Arts Center, Fox River Mall, Neuroscience Group Field at Fox Cities Stadium, Appleton International Airport, and the Valley's two major hospitals: St. Elizabeth Hospital and ThedaCare Regional Medical Center-Appleton. It also hosts a large number of regional events such as its Flag Day parade, Christmas parade, and others. Rennes Assisted Living SNF was built in 1990. Seven years later, leading the industry in innovation

and community leadership, Renaissance Appleton was the first assisted living apartment community (RCAC) in the state of Wisconsin. Today the 24-year old, 74-unit RCAC has grown into a campus setting featuring assisted living, a skilled nursing home, and four independent living on campus duplexes, located in an urban neighborhood with easy access to shopping and public transportation. Across the street is a middle school the facility has partnered with for many years, doing projects with the students at the school, in the community, or in the facility. To an outsider, the campus and its residential neighbors is described as a small town neighborhood in a big city.

The setting is integrated in and supports full access to the greater community [42 CFR § 441.301(c)(4)(i)].

The community considers the setting a part of their community and does not associate the setting with institutional services.

Met Unmet Not Applicable

Renaissance Appleton has been part of the neighborhood for 24 years and most people refer to the facility as “the apartment building with help.” It is a bus stop on Valley Transit, the public bus system. Tenants may have their own vehicle and can be part of the entire Fox Valley and beyond if they choose. The location provides people the opportunity to continue day to day community activities and services, and seeing family and friends, as they did before they moved. Tenants may have pets and currently two cats live at Renaissance Appleton.

Individuals, to the extent they desire, have opportunities to participate in typical community life activities outside of the setting.

Compliance within Wisconsin State Standards and Regulations

From [contract between SMA and specific MCOs](#):

ADDENDUM VI.

Personal Experience Outcomes in Long-Term Care:

Assisting people to achieve their desired individual quality-of-life outcomes is one of the primary goals of managed long-term care. The following personal experience outcome domains are the areas of life that people in long-term care programs have identified as being important to their quality of life. They provide a framework for learning about and understanding the individual’s needs, values, preferences, and priorities in the assessment and care planning process and in monitoring the quality of our long-term care programs. It is expected that each of these domains will be assessed during the member-centered planning process.

Choice – choosing:

- Where and with whom to live
- Supports and services
- Daily routines

Personal Experience – having:

- Interaction with family and friends
- Work or other meaningful activities
- Community involvement
- Stability
- Respect and fairness
- Privacy

Each participant in a Medicaid home and community-based waiver program must have a person-centered plan that, when indicated, includes any conditions that are to be applied to the conditions defined in the HCBS settings rule. (Wisconsin HCBS waivers, waiver-specific contracts, and policy documents)

Met Unmet Not Applicable

Renaissance Appleton tenants can come and go as they please and participate in any community activities they choose. The activity department schedules restaurant outings and weekly grocery shopping trips, but tenants can also enjoy community activities with friends and family or on their own such as going to the beauty shop, grocery shopping, church services, dining where they choose, and continuing to do their favorite things in the area as they did before they moved to Renaissance Appleton. Some favorite activities are going to high school plays, community choirs, the Performing Arts Center, and church services. The RCAC has an active relationship with the middle school across the street, engaging in many projects with the students there. If they wish, residents can volunteer at the SNF by passing communion or providing one-on-one supports for SNF residents to enjoy activities. The Renaissance Appleton policy, Quality of Life Resident self Determination and Participation, states “Residents are encouraged to make choices about aspects of their lives in the facility including a) organizing and participating in residents groups, b) Interacting with other residents, family and members of the community; and c) Participating in community activities inside and outside the facility.”

Activities are individualized or include more than just setting-based group activities.

Met Unmet Not Applicable

Renaissance Appleton tenants can participate in onsite and community activities whenever they choose. The facility is operated as an apartment complex in that residents are able to direct their routines and daily schedules including choosing what they want and do not want to participate in within the facility and within the community. There is a daily activity board on each floor listing the activities of the day and a large bulletin board with all the onsite activities and many community activities along with sign-up sheets, etc.

The setting supports access to community activities through its own transportation or coordination of transportation options.

Met Unmet Not Applicable

Renaissance Appleton tenants have many choices for transportation from having their own vehicle to using the facility van to using public transportation and taxis. Valley Transit is a city bus and paratransit commission operated by the city government of Appleton since 1930 and now operating across the Fox Cities. There is a bus stop outside the RCAC. Often family and friends provide transportation. Facility staff assist with scheduling appointments if help is needed. The Renaissance Appleton facility vehicle is available to provide transportation on designated days of the week free-of-charge. Several tenants have their own vehicle.

Individuals, if they choose, have opportunities to seek employment and work in competitive integrated settings.

Compliance within Wisconsin State Standards and Regulations

From contract between DHS and specific MCOs:

V. Care Management:

C. Assessment and Member-Centered Planning Process

C.1. Comprehensive Assessment

C.1.(c) Documentation: The comprehensive assessment will include documentation by the IDT staff of:

C.1.(c)(viii) An exploration with the member of the member’s preferences and opportunities for community integration including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community.

C.3. Member-Centered Planning

C.3.(c)(iv)(g) The setting in which the member resides supports integration into 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.

VII. Services

A. General Provisions

1. Comprehensive Service Delivery System

- c. Serve to maintain community connections, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, and that are cost effective.

Addendum I

It is the DHS's "expectation under this contract that benefits will be fully integrated and will afford options that foster opportunities for interaction and integration into 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 while supporting each member's individual outcomes and recognizing each member's preferences."

Met Unmet Not Applicable

The Renaissance Appleton policy statement "Quality of Life – Resident Self Determination and Participation" states "our facility respects and promotes the right of each resident to exercise his or her autonomy regarding what the resident considers to be important facets of his or her life" including daily routine, personal care needs, providers of healthcare services, activities, hobbies and interests, religious affiliation and worship preferences and community involvement, including work or volunteer opportunities.

Individuals are able to control their personal resources.

Compliance within Wisconsin State Standards and Regulations

Each tenant has the right to manage his or her own financial affairs, unless the tenant delegates responsibility to another person or the tenant has a guardian. (Summarized from [Wis. Admin. Code § DHS 89.34](#))

From [contract between SMA and specific MCO](#):

V. Care Management:

C. Assessment and Member-Centered Planning Process

C.1. Comprehensive Assessment

C.1.(c) The comprehensive assessment will include documentation by the interdisciplinary (IDT) staff of all of the following:

- (ix) An exploration with the member of the member's preferences and opportunities for community integration including opportunities to control personal resources.

C.3. Member-Centered Plan (MCP)

C.3.(c)(iv) The MCP shall document at least the following:

- (g) The setting in which the member resides supports integration into the greater community, including opportunities to control personal resources.
-

Met Unmet Not Applicable

Renaissance Appleton tenants have keys to their own apartments and can lock their resources in their rooms. The facility can provide lock drawers or a safe if requested. Tenants have access to the community and can continue banking at the financial institution of choice. Form F-02117, the general HCBS provider assessment, states there is not a central location at the facility where resident's personal finances are held.

Choice, Independence, and Person-Centered Planning

The setting is selected by the individual from among setting options including non-disability specific settings. [42 CFR § 441.301(c)(4)(ii)].

Compliance within Wisconsin State Standards and Regulations

Wisconsin has protections in place for Medicaid waiver participants which ensure they understand their choices. DHS waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are responsible for discussing choice of service settings with the waiver participant and family/guardian to locate the most suitable provider setting, including a discussion of living in a non-disability specific setting. In practice, the waiver agencies are complying with this requirement, and documenting and monitoring the choice of settings in the member-centered plan or IRIS support and service plan, as applicable.

In Wisconsin, the choice of setting requirement is not the initial responsibility of the provider setting. Rather the choice of setting takes place through the person-centered planning process at the waiver agency level. Waiver agencies are certified by DHS and work within the requirements of contracts with DHS. Through ongoing monitoring, Wisconsin will ensure that individuals maintain the right to choose where they reside.

Additionally, Wisconsin has protections in place through *Pre-Admission Consultation (PAC)*: <https://www.dhs.wisconsin.gov/adrc/pros/pac.htm>

“Pre-admission consultation is a service provided by Aging and Disability Resource Centers (ADRCs) to individuals who are in the process of considering or making a decision about the need to move out of his or her home in order to receive the help they need to remain independent and safe. Sometimes people are unaware that there are services and supports that can be provided right in their own home, often making a move unnecessary. Those who want to move into a nursing home or assisted living facility (such as a community based residential facility or residential care apartment complex), can find it difficult to know which facility would be the best for them or a loved one.”

From [contract between SMA and specific MCOs](#):

- V. Care Management:
 - A. Member Participation:
 - A.2. Members shall receive clear explanations of:
 - d. The full range of residential options, including in-home care, residential care and nursing home care when applicable.
 - e. The benefits, drawbacks and likelihood of success of each option.
 - C.1. Comprehensive Assessment
 - C.1. (ix) – An exploration with the member of the member’s preferred living situation and a risk assessment for the stability of housing and finances to sustain housing as indicated.
 - C.3. Member-Centered Plan (MCP)
 - C.3.(c)(iv) The MCP shall document at least the following:
 - (f) – The home and community-based residential setting option chosen by the member and other options presented to the member unless the member declines to consider other options.

ADDENDUM VI.

Personal Experience Outcomes in Long-Term Care:

Assisting people to achieve their desired individual quality-of-life outcomes is one of the primary goals of managed long-term care. The following personal experience outcome domains are the areas of life that people in long-term care programs have identified as being important to their quality of life. They provide a framework for learning about and understanding the individual’s needs, values, preferences, and priorities in the assessment and care planning process and

in monitoring the quality of our long-term care programs. It is expected that each of these domains will be assessed during the member-centered planning process.

Choice – choosing:

- Where and with whom to live
- Supports and services

50.034, Stats

WI State Statute 50.034 Residential care apartment complexes.

5n) Required referral. Subject to sub. (5p), when a residential care apartment complex first provides written material regarding the residential care apartment complex to a prospective resident who is at least 65 years of age or has developmental disability or a physical disability and whose disability or condition is expected to last at least 90 days, the residential care apartment complex shall refer the prospective resident to a resource center under s. [46.283](#), unless any of the following applies:

- [50.034\(5n\)\(c\)](#) The person is an enrollee of a care management organization.

Person-Centered Planning: Options of services, providers, and settings, including non-disability specific settings, are offered to participants in all Wisconsin HCBS programs. ([Statewide Transition Plan](#), pg. 85; Wisconsin HCBS waivers, waiver-specific contracts, and policy documents)

Met Unmet Not Applicable

The Renaissance Appleton administrator/nurse manager meets with the individual prior to admission to discuss and complete the service agreement and the negotiated risk agreement, which is also completed at least annually, when the individual or their representative requests it, or when there is a significant change of condition. When an individual is supported with waiver funding, a member centered plan is developed with the full participation of the member. The member-centered plan always includes discussion about where the individual would like to live and identifies outcomes and goals the member wishes to attain. Included are discussion about setting or choices, employment and education, and social and family/friends interaction. Most tenants apply for admission to Renaissance Appleton when they are private pay. Currently there are seven tenants supported with waiver funding.

The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and resources available for room and board. [42 CFR § 441.301(c)(4)(ii)].

Compliance within Wisconsin State Standards and Regulations

Wisconsin Admin. Code ch. DHS 89 is intended “to establish standards and procedures for the certification or registration of residential care apartment complexes in order to promote the health and safety of persons residing in and receiving services from those facilities. This chapter is intended to ensure that all residential care apartment complexes provide each tenant with an independent apartment in a setting that is home-like and residential in character; make available personal, supportive and nursing services that are appropriate to the needs, abilities and preferences of individual tenants; and operate in a manner that protects tenants’ rights, respects tenant privacy, enhances tenant self-reliance and supports tenant autonomy in decision-making including the right to accept risk.” ([Wis. Admin. Code § DHS 89.11](#))

The tenant has the right to choose services and the right to refuse services. The tenant has the right to receive visitors, meet with groups, or participate in activities of the tenant’s choice, to receive and send sealed mail, and to have a private phone installed in his or her independent apartment. (Summarized from [Wis. Admin. Code § DHS 89.34](#))

Each tenant has the right to: manage his or her own financial affairs, unless the tenant delegates responsibility to another person or the tenant has a guardian; have choice of his or her physician and other medical providers; and a choice of providers of supportive, personal, and nursing services from providers other than the residential care apartment complex, subject to the requirements of [Wis. Admin. Code § DHS 89.24\(2\)\(b\)](#).

From [contract between SMA and specific MCOs](#):

V. Care Management:

C. Assessment and Member-Centered Planning Process:

Member-centered planning reflects understanding between the member and the IDT staff and will demonstrate changes that occur with the member's outcomes and health status. The member is always central to the member centered planning and comprehensive assessment process. The IDT staff will ensure that the member is at the center of the member centered planning process. The member will actively participate in the planning process, in particular, in the identification of personal outcomes and preferences.

Met Unmet Not Applicable

The Renaissance Appleton administrator/nurse manager meet with the individual prior to admission to discuss and complete the service agreement and the negotiated risk agreement, which is also completed at least annually, when the individual or their representative requests it, or when there is a significant change of condition. When an individual is supported with waiver funding, a member centered plan is developed with the full participation of the member. The MCP always includes discussion about where the individual would like to live and identifies outcomes and goals the member wishes to obtain. Included are discussion about setting or choices, employment and education, and social and family/friends interaction. Most tenants apply for admission to Renaissance Appleton prior to needing waiver funding.

The setting facilitates choice regarding services and supports, and who provides them. Individuals have a choice in selecting their service providers, and are not reliant on services from the institution to the exclusion of other community-based options. Individuals can choose to receive services in the community to the same degree as individuals not receiving Medicaid HCBS. [42 CFR § 441.301(c)(4)(v)]

Compliance within Wisconsin State Standards and Regulations

From Contract Between SMA and Each MCO:

VIII. Provider Network,

A. Member Choice

1. Information to Members: The MCO shall inform members about the full range of provider choice available to them, including free choice of medical and other providers that remain fee-for-service for Family Care members, as applicable.

From [IRIS Policy Manual](#)

1.1C Philosophy

Self-direction means people have more choice, control, flexibility, freedom, and responsibility. Within the context of IRIS, self-direction means participants decide upon the following:

- The goods, supports, and services needed to help live the life he or she wants while meeting his or her long-term care outcomes.
- The amount and location that goods, supports, and services are provided, as well as decisions on the provider of these services.

Person-Centered Planning:

- Options of services, providers, and settings, including non-disability specific settings, are offered to participants in all Wisconsin HCBS programs. (Statewide Transition Plan, pg. 87; Summarized from Wis. HCBS waivers, waiver-specific contracts, and policy documents.)
- Residents have the right to “receive adequate and appropriate care within the capacity of the facility” and to “use the licensed, certified or registered provider of health care and pharmacist of the resident’s choice.” ([Wis. Stat. § 50.09](#))

Rights:

- The tenant has the right to choose services and the right to refuse services. (WI Statewide Transition Plan, pg. 84; Summarized from Wis. Admin. Code § DHS 89.34)
- Each tenant has the right to: have choice of his or her physician and other medical providers; and a choice of providers of supportive, personal, and nursing services from providers other than the residential care apartment complex, subject to the requirements of [Wis. Admin. Code § DHS 89.24\(2\)\(b\)](#). (WI Statewide Transition Plan, pg. 85; Summarized from Wis. Admin. Code § [DHS 89.34](#))

Met Unmet Not Applicable

Renaissance Appleton residents select their own providers for medical, therapeutic, pharmacy and other services. The facility does not require or direct the use of any providers. The service agreement, section 3H) provides that outside providers can serve an individual (in their apartment) as long as the facility approves the outside providers and the outside providers comply with applicable facility policy and procedures, attachment E. The Renaissance Appleton policy statement “Quality of Life – Resident Self Determination and Participation” states “our facility respects and promotes the right of each resident to exercise his or her autonomy regarding what the resident considers to be important facets of his or her life” including daily routine, personal care needs, providers of healthcare services, activities, hobbies and interests, religious affiliation and worship preferences and community involvement, including work or volunteer opportunities.

The setting optimizes, but does 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. [42 CFR § 441.301(c)(4)(iv)]

Compliance within Wisconsin State Standards and Regulations

Wisconsin Admin. Code ch. DHS 89 is intended “to establish standards and procedures for the certification or registration of residential care apartment complexes in order to promote the health and safety of persons residing in and receiving services from those facilities. This chapter is intended to ensure that all residential care apartment complexes provide each tenant with an independent apartment in a setting that is home-like and residential in character; make available personal, supportive and nursing services that are appropriate to the needs, abilities and preferences of individual tenants; and operate in a manner that protects tenants' rights, respects tenant privacy, enhances tenant self-reliance and supports tenant autonomy in decision-making including the right to accept risk.” ([Wis. Admin. Code § DHS 89.11](#))

Each tenant will have a service agreement based on an assessment conducted with the active participation of the tenant. The service agreement includes the type, amount, and frequency of any services to be provided to the tenant, any additional services that are available, and the activities and social connections the tenant will be assisted in maintaining. (Summarized from [Wis. Admin. Code §§ DHS 89.26 and 89.27](#))

The tenant has the right to choose services and the right to refuse services. The tenant has the right to receive visitors, meet with groups or participate in activities of the tenant's choice, to receive and send sealed mail, and to have a private phone installed in his or her independent apartment. (Summarized from [Wis. Admin. Code § DHS 89.34](#))

Met Unmet Not Applicable

The Renaissance Appleton policy statement “Quality of Life – Resident Self Determination and Participation” states “our facility respects and promotes the right of each resident to exercise his or her autonomy regarding what the resident considers to be important facets of his or her life” including daily routine, personal care needs, providers of healthcare services, activities, hobbies and interests, religious affiliation and worship preferences and community involvement, including work or volunteer opportunities.

Individuals have the freedom and support to control their own schedules and activities. [42 CFR § 441.301(c)(4)(vi)(C)]

Compliance within Wisconsin State Standards and Regulations

Wisconsin Admin. Code ch. DHS 89 is intended “to establish standards and procedures for the certification or registration of residential care apartment complexes in order to promote the health and safety of persons residing in and receiving services from those facilities. This chapter is intended to ensure that all residential care apartment complexes provide each tenant with an independent apartment in a setting that is home-like and residential in character; make available personal, supportive and nursing services that are appropriate to the needs, abilities and preferences of individual tenants; and operate in a manner that protects tenants' rights, respects tenant privacy, enhances tenant self-reliance and supports tenant autonomy in decision-making including the right to accept risk.” ([Wis. Admin. Code § DHS 89.11](#))

Met Unmet Not Applicable

The Renaissance Appleton policy statement “Quality of Life – Resident Self Determination and Participation” states “our facility respects and promotes the right of each resident to exercise his or her autonomy regarding what the resident considers to be important facets of his or her life” including daily routine, personal care needs, providers of healthcare services, activities, hobbies and interests, religious affiliation and worship preferences and community involvement, including work or volunteer opportunities. Renaissance Appleton tenants can participate in onsite and community activities whenever they choose. The facility is operated as an apartment complex in that residents are able to direct their routines and daily schedules including choosing what they want and do not want to participate in within the facility and within the community.

The setting ensures an individual’s rights of privacy, dignity and respect, and freedom from coercion and restraint, [42 CFR § 441.301(c)(4)(iii)].

Compliance within Wisconsin State Standards and Regulations

Renaissance Appleton is a residential care apartment complex (RCAC). RCACs are independent apartments that offer additional services, if needed. The services provided to tenants are based on the tenant’s selection from a menu of services and supports, both in the setting and in the community. A tenant may choose to do most activities independently or have more comprehensive assistance.

State-regulated settings are subject to unannounced licensing visits, both in response to complaints and during regular oversight visits. In addition, when HCBS participants are resident in the setting, waiver program care managers are required to have ongoing contact, including face-to-face visits, at which time any member rights issues would be identified and addressed.

Rights: A tenant has the right “to have privacy in his or her independent apartment and when receiving supportive, personal or nursing services.” The tenant has the right “to be free from physical, sexual or emotional abuse, neglect or financial exploitation or misappropriation of property by the facility, its staff or any service provider under contract with the facility” and has the right to be free from coercion. (Statewide Transition Plan, pgs. 85-86; Summarized from Wis. Admin. Code §§ DHS [89.34](#) and [89.36](#))

DHS prohibits the use of restraint or seclusion of waiver participants unless the specific restraint or seclusion intervention has been reviewed and approved by DHS. Use of restraint and/or isolation is monitored by waiver agencies and DHS. Guidelines on restraints and isolation are found at: www.dhs.wisconsin.gov/waivermanual/appndx-r1.pdf and www.dhs.wisconsin.gov/dqa/memos/15-003.pdf (WI Statewide Transition Plan)

Met Unmet Not Applicable

The Renaissance Appleton services agreement attachment H, tenant rights, ensures courtesy and respect, privacy, a safe environment and freedom from abuse.

Individuals are able to have visitors of their choosing at any time. [42 CFR § 441.301(c)(4)(vi)(D)]

Compliance within Wisconsin State Standards and Regulations

“Each independent apartment shall be of adequate size and configuration to permit tenants to carry out, with or without assistance, all the functions necessary for independent living, including... entertaining visitors.” (WI Statewide Transition Plan; [Wis. Admin. Code § DHS 89.22](#))

The tenant has the right to receive visitors, meet with groups, or participate in activities of the tenant’s choice, to receive and send sealed mail, and to have a private phone installed in his or her independent apartment. (WI Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 89.34](#))

Met Unmet Not Applicable

The Renaissance Appleton visitor policy states that residents may have visitors at any time, 24 hours/day with the consent of the individual resident. Space is available in the lobby, common areas, and the resident’s apartment to receive guests in “reasonable comfort and privacy.” Tenants may have overnight visitors and may request a facility cot if needed for an overnight guest.

Individuals have access to food at any time.

Compliance within Wisconsin State Standards and Regulations

A “Residential care apartment complex’ consists of independent apartments, each of which has an individual lockable entrance and exit, a kitchen, including a stove, and individual bathroom, sleeping and living areas” ([Wis. Admin. Code § DHS 89.13](#))

Each independent apartment shall have a kitchen that is “a visually and functionally distinct area within the apartment. The refrigerator shall have a freezer compartment. The sink shall have hot and cold running water.” (Wis. Admin. Code § DHS 89.22)

Met Unmet Not Applicable

Renaissance Appleton tenants have a choice to cook in their apartment kitchen, dine a la carte, or choose from a variety of meal plans such as dinner only or three meals each day. Snacks are available at all times. Guests are welcome, but reservations are requested. Tenants can come and go as they wish so they may dine wherever they like in the community. The kitchenette includes a refrigerator and a microwave and a stove/oven if they wish.

The living unit is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services. The individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under applicable landlord/tenant laws. The State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord/tenant laws. [42 CFR § 441.301(c)(4)(vi)(A)].

Compliance within Wisconsin State Standards and Regulations

A residential care apartment complex shall enter into a mutually agreed-upon written service agreement with each of its tenants. The agreement shall include the services and the charges for any services in the service agreement and any additional services that are available for purchase. The agreement must also include the grounds for any termination of the agreement. (WI Statewide Transition Plan, pg. 88; Summarized from Wis. Admin. Code § [DHS 89.27](#))

Met Unmet Not Applicable

The Renaissance Appleton service agreement specifies the terms and conditions for service for an individual to live in an apartment and receive services. Section 9 delineates the options of termination of the agreement other than required 30 days written notice on the part of both the tenant and the facility.

Overcoming Institutional Presumption

The setting demonstrated a meaningful physical distinction between the HCBS setting and the institutional setting, including separate entrances and signage, physical divisions, and differences in décor.

Met Unmet Not Applicable

Renaissance Appleton has a separate entrance and signage from the Rennes Health and Rehab Center-Appleton SNF. Inside, the RCAC is separated from the SNF by a fire door requiring a code. There is also a coded elevator entrance from the RCAC to the SNF.* The décor of the hallways, dining rooms and common areas in the CBRF is different than the SNF. The CBRF is comfortable and casual.

*The elevator is needed to go down ½ floor due to the elevation of the land on which the RCAC sits is higher than the SNF. There also is a ramp separating the two facilities.

Each individual has privacy in their sleeping or living unit.

Compliance within Wisconsin State Standards and Regulations

A “residential care apartment ‘complex’ or ‘facility’... consists of independent apartments, each of which has an individual lockable entrance and exit, a kitchen, including a stove, and individual bathroom, sleeping and living areas...” ([Wis. Admin. Code § DHS 89.13](#))

A tenant has the right “to have privacy in his or her independent apartment and when receiving supportive, personal or nursing services.” The tenant has the right “to be free from physical, sexual or emotional abuse, neglect or financial exploitation or misappropriation of property by the facility, its staff or any service provider under contract with the facility” and has the right to be free from coercion. (Summarized from Wis. Admin. Code §§ DHS 89.34 and 89.36)

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance (DQA) surveyors that the setting (DQA, [F-02138](#), HCBS Compliance Review):

- Provides lockable key entry doors on all resident rooms, and individual keys to all residents.
- Has a policy ensuring that staff uses facility keys to enter a resident’s room only under circumstances agreed upon with the resident.

Met Unmet Not Applicable

The Renaissance Appleton door lock policy provides that residents have the right to ensure privacy and safeguarding of their belongings and will ensure that all apartments have a locking entrance door and are issued a corresponding key. Further, the facility will ensure the door handles meet the physical need of each resident. The policy details when an emergency or other potential emergency exists and when staff may need to enter the tenant’s apartment.

Individual living units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.

Compliance within Wisconsin State Standards and Regulations

Each independent apartment shall have “an individual lockable entrance and exit. A single door may serve as both entrance and exit. Keys to the door to the independent apartment and to the residential care apartment complex shall be supplied to the tenant.” ([Wis. Admin. Code § DHS 89.22](#))

“‘Individual lockable entrance and exit’ means a door that provides access to an independent apartment and is equipped with an individually keyed lock which is operable from both inside and outside the unit and which the tenant can open, close and lock to ensure privacy.” ([Wis. Admin. Code § DHS 89.13](#))

Locks on living unit doors allow the resident to exercise his or her right to privacy and personal choice. Staff in each residential setting should always knock and receive permission prior to entering a resident’s living space. DHS expects the residential setting to have a policy in place to ensure that staff always

knock and receive permission prior to entering a resident's room or personal living space to respect residents' rights to privacy. Please refer to DHS' [Frequently Asked Questions \(FAQs\) about Door Locks in Adult Long-Term Care Residential Settings](#) for additional lock-related information.

Met Unmet Not Applicable

The Renaissance Appleton door lock policy provides that residents have the right to ensure privacy and safeguarding of their belongings and will ensure that all apartments have a locking entrance door and are issued a corresponding key. Further, the facility will ensure the door handles meet the physical need of each resident. The policy details when an emergency or other potential emergency exists when staff may need to enter the tenant's apartment.

Individuals sharing units have a choice of roommates in that setting.

Compliance within Wisconsin State Standards and Regulations

"Multiple occupancy of an independent apartment shall be limited to a spouse or a roommate chosen at the initiative of the tenant." ([Wis. Admin. Code § DHS 89.22](#))

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance surveyors that residents have choice of roommates (DQA, [F-02138](#), HCBS Compliance Review).

Person-Centered Planning: Family Care Provider Network, I. Access to Providers: "For residential care facilities, evidence of adequate capacity shall include identification of the availability of residential providers offering private rooms, and a process for moving an individual to a private room when one becomes available that is consistent with the member's preferences." ([DHS-MCO Contract, Article VIII, I\(6\)d](#))

Met Unmet Not Applicable

All apartments at Renaissance Appleton are single units.

Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement. [42 CFR § 441.301(c)(4)(vi)(B)(1-3)]

Compliance within Wisconsin State Standards and Regulations

A tenant has the right "to furnish his or her independent apartment and to maintain personal possessions as space permits as long as the tenant does not unreasonably interfere with the other tenants' choices or endanger the health or safety of the other tenants." (WI Statewide Transition Plan; [Wis. Admin. Code § DHS 89.34](#))

Met Unmet Not Applicable

The Renaissance Appleton tenant rights #7 Furnishings and possessions: "(the right) to furnish his or her independent apartment and to maintain personal possessions as space permits as long as the tenant does not unreasonably interfere with the other tenant's choices or endangers the health or safety of other tenants."

The setting is physically accessible to the individual. [42 CFR § 441.301(c)(4)(vi)(E)]

Compliance within Wisconsin State Standards and Regulations

"Each independent apartment shall be of adequate size and configuration to permit tenants to carry out, with or without assistance, all the functions necessary for independent living, including sleeping; sitting; dressing; personal hygiene; storing, preparing, serving and eating food; storing clothing and other personal possessions; doing personal correspondence and paperwork; and entertaining visitors." ([Wis. Admin. Code § DHS 89.22](#))

Met Unmet Not Applicable

The Renaissance Appleton facility was built in 1997 and meets physical accessibility requirements.

Operational Distinction

The setting demonstrated meaningful operational distinction between the institution and the community-based setting, such as minimal administrative and financial interconnectedness.

Met Unmet Not Applicable

There is no administrative and/or financial interconnectedness between the Renaissance Appleton RCAC and Rennes Health and Rehab Center-Appleton. Renaissance Appleton is a separate facility under the corporate umbrella of Rennes Assisted Living, Inc. There are five Renaissances that operate under Rennes Assisted Living, Inc. and each facility is independently responsible to manage and operate administratively and financially as a stand-alone entity. Assistance is provided remotely to the Renaissances by the group office and consists of support services, payroll, accounts payable and accounts receivable. Organizational charts are separate for each facility and at the Appleton campus for the Renaissance Appleton RCAC and the Rennes Health and Rehab Center-Appleton SNF. Financial forms are separate with the RCAC as “201” and the SNF as “103.” And there are separate income statement forms for each facility.

There is a distinction between staff for the HCBS setting and the institutional setting. Staff working in the HCBS setting receive initial and ongoing training on HCBS settings rule requirements and principles, and person-centered planning.

Met Unmet Not Applicable

Staff who work at Renaissance Appleton are not shared with the Rennes Health and Rehab Center-Appleton SNF. A review of training materials show that staff are trained in “Assisted Living What Is It?” and community based residential facilities. One of the in-service trainings is “the purpose and philosophy of assisted living, inducing respect for privacy, autonomy and independence, customer service.”

DHS Recommendation

DHS finds that Renaissance Appleton possesses the required home and community-based characteristics, is not isolating in nature, and overcomes the presumption of having institutional qualities.

Please note that these findings are preliminary only and must receive final approval from CMS.

In accordance with federal requirements, all compliance results will be made public by DHS. The decision will appear on the subsequent upload of facility information to DHS websites, including the [DQA Provider Search webpage](#) and the provider directories available at the [Consumer Guide to Health Care – Finding and Choosing an Assisted Living Facility webpage](#).

Ongoing Compliance

Wisconsin’s Division of Quality Assurance (DQA) will ensure through ongoing compliance reviews that Renaissance Assisted Living-Appleton continues to meet the requirements of the HCBS Settings Rule. The DMS Bureau of Assisted Living (BAL) has incorporated the HCBS settings rule into its current assisted living survey process and activities. ([DQA Implementation of Home and Community-Based Services Settings Rule in Residential Assisted Living Facilities](#))

Waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are certified by the Wisconsin Department of Health Services (DHS) and work within the requirements of contracts with DHS. State licensed settings are subject to unannounced licensing visits, both in response to complaints and during regular oversight visits, by the state licensing authority, or by the entity that certified the provider if not regulated by the state. As part of these periodic licensing or certification reviews, the credentialing entity will also review the setting for continued HCBS compliance. Providers will be required to address any HCBS rule deficiencies.

When HCBS participants are resident in the setting, waiver program care managers are required to have ongoing contact, including face-to-face visits, at which time any areas of concern would be identified and addressed. Each participant in a Medicaid home and community-based waiver program is further protected through the state's long-term care ombudsman program, which has regular access to the assisted living setting. [Wisconsin's Board on Aging & Long Term Care](#): The Board on Aging and Long Term Care advocates for the interests of Wisconsin's long-term care consumers, informs those consumers of their rights and educates the public about health care systems and long-term care. The Board also operates the [Long Term Care Ombudsman](#), and [Volunteer Ombudsman](#) services.

EVIDENTIARY ASSESSMENT AND SUMMARY
Home and Community-Based Services (HCBS) Settings Rule
Heightened Scrutiny Review – Community-Based Residential Facility (CBRF)

Facility Name Ridge Crest Manor		Facility Type Community-Based Residential Facility (CBRF)	
Corporate Name (if applicable) Colfax Health and Rehabilitation Center, Inc.		License/Certification # 0014630	County Dunn
Facility Address 110 Park Drive	City Colfax	State WI	Zip Code 54730
Primary Contact Name: Kenzie Galetka	Primary Contact Direct Phone (incl. area code) 715-962-3186	Primary Contact Email Address:: kenzie.galetka@colfaxhealthandrehab.com	
Facility Website Address www.colfaxhealthandrehabilitation.com/ridge-crest-manor-assisted-living-cbrf			

Reason for Institutional Presumption

- Settings in a publicly or privately operated facility that provides inpatient institutional treatment. [Colfax Health and Rehabilitation Center](#)
- Settings on the grounds of, or adjacent to, a public institution. Name of institution:
- Settings with the effect of isolating individuals from the broader community of individuals not receiving HCBS waiver services.

Wisconsin State Standards and Regulations

The Centers for Medicare and Medicaid Services' (CMS) HCBS settings rule assumes that certain settings are not home and community-based. If a Wisconsin assisted living facility (setting) meets one of the criteria for institutional presumption as defined above, the DHS Division of Medicaid Services (DMS) conducts a heightened scrutiny review.

DMS believes that [Ridge Crest Manor](#) has overcome the institutional presumption and meets the criteria of a home and community-based services setting as summarized below.

To reinforce the extent to which Wisconsin's licensing and certification regulations and standards align with and reinforce the HCBS settings rule, the applicable state standard or regulation is included, where applicable, with the compliance review summary below.

Facility Summary:

Colfax, a village of only 1,150, is located in Dunn County, population 43,000. Only eight miles north of the I-94 corridor, Colfax is a small-town in a rural setting that enjoys easy and convenient access to work and play in several large metropolitan areas. It is 22 miles from Eau Claire, population just under 69,000 and 75 miles from the Twin Cities of Minneapolis and St. Paul Minnesota. In addition, just 60 miles away is the National Eagle Center at the confluence of the Chippewa and Mississippi River, where the water never completely freezes over keeping the eagles nearby year round.

The concept of a nursing home was conceived by the local Colfax Civic Club in the early 1960’s and typical of Wisconsin tradition, shares of stock were sold to fund the project. The SNF opened in January 1966. Years later, the community again came together. Nearly all the original shares of stock were donated to the restructured not-for-profit entity and a CBRF and RCAC were built in 2013 so that local residents would not have to leave the village in order to obtain long term care support services. The community continues to support the facility and includes residents in many local activities like parades and school and church activities. Living close to family and friends residents enjoy shopping, attending church and school activities, and restaurant and other visits.

The leadership of the organization remains local, the board of directors consisting of concerned and involved Colfax residents who are committed to the founding vision: Provide quality care and gainful employment to the people of Colfax and surrounding communities.

The community considers the setting a part of their community and does not associate the setting with institutional services.

Met Unmet Not Applicable

The Ridge Crest Manor administration continues to find opportunities to educate the greater community about the distinction between skilled nursing services and community based programs. Educational seminars are held periodically at local senior centers and with other civic groups. Community members and affiliated groups volunteer at the facility and several holiday related activities include students from the area schools. Some of these activities are held onsite and others in the community.

Individuals, to the extent they desire, have opportunities to participate in typical community life activities outside of the setting.

Compliance within Wisconsin State Standards and Regulations:

Person-Centered Planning: The plan must be based on an assessment that addresses the person’s “capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known” and “social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs.” (Summarized from [Wis. Admin. Code § DHS 83.35](#))

Program Services: Community activities. The CBRF shall provide information and assistance to facilitate participation in personal and community activities. The CBRF shall develop, update and make available to all residents, monthly schedules and notices of community activities, including costs. ([Wis. Admin. Code § DHS 83.38\(1\)\(d\)](#))

Family and social contacts: The CBRF shall encourage and assist residents in maintaining family and social contacts. (Wis. Admin. Code § DHS 83.38(1)(e))

Met Unmet Not Applicable

Residents go out on trips in the community, as they desire with family and friends for shopping and dinner, attending family and community functions, and for medical and other appointments. The proximity to the much larger city of Eau Claire and the Twin Cities, Minneapolis and St. Paul, provides a variety of entertainment, medical, and personal opportunities. Notices about community and special facility events are posted on bulletin boards and distributed to residents.

Ridge Crest Manor’s Resident Rights provide for resident choice in activities and schedules: Section 4k and 4l: “Self-determination –Make decisions related to care, activities, daily routines, and other aspects of life which enhance the resident’s self-reliance and support the resident’s autonomy and decision making.” In addition, “Least restrictive environment – Have the least restrictive conditions necessary to achieve the purposes of the resident’s admission. The facility may not impose a curfew, rules or other restriction on a resident’s freedom of choice.”

A sample ISP demonstrates this self-direction and effort to provide services in and as close to their experience in the community.

Activities are individualized or include more than just setting-based group activities

Met Unmet Not Applicable

Residents participate in activities on and off campus, as they desire. They can go out whenever they wish. Family and friends are encouraged to participate in activities as the resident desires. Many residents continue participation in groups and activities as they did prior to moving to Ridge Crest Manor, such as church, veterans, and interest groups. Some favorite activities are boat rides and community fairs in and around the Colfax area. Residents have a choice whether or not to participate in both individual and group activities.

The setting supports access to community activities through its own transportation or coordination of transportation options.

Met Unmet Not Applicable

Transportation needs are discussed in the ISP and updated as necessary. Facility staff assist with arranging transportation for medical appointments and may provide transportation. Several nearby communities offer escort and medical transportation. Family and friends frequently transport residents for appointments and activities.

Individuals, if they choose, have opportunities to seek employment and work in competitive integrated settings.

Compliance within Wisconsin State Standards and Regulations:

Person-Centered Planning:

The plan must be based on an assessment that addresses the person’s “capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known” and “social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs.” ([WI Statewide Transition Plan](#); Summarized from [Wis. Admin. Code § DHS 83.35](#))

From contract between DHS and specific MCOs:

V. Care Management:

C. Assessment and Member-Centered Planning Process

C.1. Comprehensive Assessment

C.1.(c) Documentation: The comprehensive assessment will include documentation by the IDT staff of:

C.1.(c)(viii) An exploration with the member of the member’s preferences and opportunities for community integration including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community.

C.3. Member-Centered Planning

C.3.(c)(iv)(g) The setting in which the member resides supports integration into 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.

VII. Services

A. General Provisions

1. Comprehensive Service Delivery System

- c. Serve to maintain community connections, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, and that are cost effective.

Addendum I

It is the DHS's "expectation under this contract that benefits will be fully integrated and will afford options that foster opportunities for interaction and integration into 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 while supporting each member's individual outcomes and recognizing each member's preferences."

Met Unmet Not Applicable

Residents have choice in their daily schedules and can come and go as they wish. If desired, they can volunteer and participate in any activities they wish including employment.

Individuals are able to control their personal resources.

Compliance within Wisconsin State Standards and Regulations:

Every resident in a community-based residential facility has the right to "manage the resident's own financial affairs, unless the resident delegates, in writing, such responsibility to the facility and the facility accepts the responsibility or unless the resident delegates to someone else of the resident's choosing and that person accepts the responsibility." (Statewide Transition Plan; [Wis. Stat. § 50.09](#))

Met Unmet Not Applicable

Residents have the right to manage their own personal funds. If they wish, they may delegate someone such as a family member to manage these funds. Residents may choose for the facility to hold their funds in an interest bearing account. If it is after hours or on weekends, the nurse in the facility has access to money if a resident requests funds from their account. Information about options for resident personal funds is given at the time of admission for the resident to review.

Choice, Independence, and Person-Centered Planning

The setting is selected by the individual from among setting options including non-disability specific settings. [42 CFR § 441.301(c)(4)(ii)]

Compliance within Wisconsin State Standards and Regulations:

Wisconsin has protections in place for Medicaid waiver participants which ensure they understand their choices. DHS waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are responsible for discussing choice of service settings with the waiver participant and family/guardian to locate the most suitable provider setting, including a discussion of living in a non-disability specific setting. In practice, the waiver agencies are complying with this requirement, and documenting and monitoring the choice of settings in the member-centered plan or IRIS support and service plan, as applicable.

In Wisconsin, the choice of setting requirement is not the initial responsibility of the provider setting. Rather the choice of setting takes place through the person-centered planning process at the waiver agency level. Waiver agencies are certified by DHS and work within the requirements of contracts with DHS. Through ongoing monitoring, Wisconsin will ensure that individuals maintain the right to choose where they reside.

Additionally, Wisconsin has protections in place through *Pre-Admission Consultation (PAC)*: <https://www.dhs.wisconsin.gov/adrc/pros/pac.htm>

“Pre-admission consultation is a service provided by Aging and Disability Resource Centers (ADRCs) to individuals who are in the process of considering or making a decision about the need to move out of his or her home in order to receive the help they need to remain independent and safe. Sometimes people are unaware that there are services and supports that can be provided right in their own home, often making a move unnecessary. Those who want to move into a nursing home or assisted living facility (such as a community based residential facility or residential care apartment complex), can find it difficult to know which facility would be the best for them or a loved one.”

Met Unmet Not Applicable

Each resident who chooses to live there signs the Ridge Crest Manor Residence and Service Agreement. Service plan packages are part of the agreement and are based on assessed needs. Residents also sign the individual services plans after participating in each regularly scheduled assessment. Prior to admission, the resident is required to complete an assessment with facility staff based on their current diagnostic, medical and social history. Subsequent plans involve the resident and any family member or other persons they wish to participate.

The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and resources available for room and board. [42 CFR § 441.301(c)(4)(ii)]

Compliance within Wisconsin State Standards and Regulations:

“COMPREHENSIVE INDIVIDUAL SERVICE PLAN Individual service plan review. Annually or when there is a change in a resident's needs, abilities or physical or mental condition, the individual service plan shall be reviewed and revised based on the assessment under sub. (1). All reviews of the individual service plan shall include input from the resident or legal representative, case manager, resident care staff, and other service providers as appropriate.” ([Wis. Admin. Code § DHS 83.35 \(1\)\(d\)](#))

Met Unmet Not Applicable

In accordance to the mission statement, the interdisciplinary team “plays a large part in ensuring that residents have personalized and individual care plans to support residents to live the lives they desire by making choices in how they receive care, be supported in those decisions, be provided resources to support those desires, and to be recognized and valued in their choices.” In addition, “Plans of service for all residents are directed by the resident. Residents are allowed to choose when they have meals, how they like to structure their day, and provide their insight on how they would like great cares to be delivered to them. All staff encourage residents to make choices and provide independence to the resident while considering the safety, health, and wellbeing of the resident” and “All residents are supported in self-advocating their needs...”

The setting facilitates choice regarding services and supports, and who provides them. Individuals have a choice in selecting their service providers, and are not reliant on services from the institution to the exclusion of other community-based options. Individuals can choose to receive services in the community to the same degree as individuals not receiving Medicaid HCBS. [42 CFR § 441.301(c)(4)(v)].

Compliance within State Standards:

Before or at the time of admission, the CBRF shall provide written information regarding services available and the charges for those services to each resident or the resident's legal representative. This information shall include any charges for services not covered by the daily or monthly rate...” (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.29](#))

Person-Centered Planning:

- “Options of services, providers, and settings, including non-disability specific settings, are offered to participants in all Wisconsin HCBS programs.” (WI Statewide Transition Plan; Summarized from Wis. HCBS waivers, waiver-specific contracts, and policy documents.)
- Residents have the right to “use the licensed, certified or registered provider of health care and pharmacist of the resident's choice.” ([Wis. Stat. § 50.09](#))

Met Unmet Not Applicable

Residents have a choice of medical providers and other service providers. They may chose providers in the village of Colfax or wherever they chose. Residents are encouraged to maintain relationships with providers they have had in the community before moving to Ridge Crest Manor. The facility provides support in making appointments with any provider of choice and obtaining transportation if needed. Ridge Crest Manor is not affiliated with a health system.

The setting optimizes, but does 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. [42 CFR § 441.301(c)(4)(iv)]

Compliance within Wisconsin State Standards and Regulations:

Rights: Licensees must protect the civil rights of residents. Residents have the right to make decision relating to care, activities, daily routines, and other aspects of life that enhance the resident’s self-reliance and support the resident’s autonomy and decision-making. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.32](#))

Person-Centered Planning: The plan must be based on an assessment that addresses the person’s capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known, and social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts, and vocational needs. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.35](#))

“The CBRF shall teach residents the necessary skills to achieve and maintain the resident’s highest level of functioning.” The CBRF shall provide or arrange services adequate to meet the needs of the residents including providing leisure time activities, facilitating participation in community activities, and encouraging and assisting residents in maintaining family and social contacts. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.38](#))

Rights: Residents have the right to make decisions relating to care, activities, daily routines, and other aspects of life that enhance the resident’s self-reliance and support the resident’s autonomy and decision making, and have the least restrictive conditions necessary to achieve the purposes of the resident’s admission. The CBRF may not impose a curfew, rule, or other restriction on a resident’s freedom of choice. (Statewide Transition Plan; Summarized from Wis. Admin. Code § DHS 83.32)

Met Unmet Not Applicable

Ridge Crest Manor Assisted Living Residence and Service Agreement addresses admission and retention requirements, monthly fees, and term and termination conditions. Residents have choice in furniture and equipment, subject to approval from the facility and meeting safety standards. Residents may invite guests to meals. Visiting can occur at any time but guests may not spend the night due to space limitations. Resident Rights policy provides for “Self-Determination – (residents) Make decisions related to care, activities, daily routines, and other aspects of life which enhance the resident’s self-reliance and support the resident’s autonomy and decision making.”

Individuals have the freedom and support to control their own schedules and activities. [42 CFR § 441.301(c)(4)(vi)(C)]

Compliance within Wisconsin State Standards and Regulations:

Person-Centered Planning: The plan must be based on an assessment that addresses the person’s “capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known” and “social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs.” (Statewide Transition Plan, pg. 72; Summarized from Wis. Admin. Code § DHS 83.35)

Rights: Licensees must protect the civil rights of residents. Residents have the right to make decision relating to care, activities, daily routines, and other aspects of life that enhance the resident’s self-reliance and support the resident’s autonomy and decision-making. (Summarized from Wis. Admin. Code § DHS 83.32)

Met Unmet Not Applicable

Residents chose their schedule and activities as they wish. Staff are trained in resident rights and encourage individuals to make their preferences known. The person centered planning process requires that “Plans of service for all residents are directed by the resident. Residents are allowed to choose when they have meals, how they like to structure their day, and provide their insight on how they would like great cares to be delivered to them. . . All staff encourage residents to make choices and provide independence to the resident while considering the safety, health, and wellbeing of the resident.” In addition, “All residents are supported in self-advocating their needs and staff make these known. Staff will assist residents to meet their goals and expand opportunities to residents to make choices.”

The setting ensures an individual’s rights of privacy, dignity and respect, and freedom from coercion and restraint, [42 CFR § 441.301(c)(4)(iii)]

Compliance within State Standards:

Rights: Residents have the right to be “treated with courtesy, respect and dignity by all employees of the facility and other providers of health care and pharmacists with whom the resident comes in contact.” ([Statewide Transition Plan](#), pg. 72; Summarized from [Wis. Stat. § 50.09](#))

Residents must be provided with “physical and emotional privacy in treatment, living arrangements, and in caring for personal needs” including, privacy for visits by spouse or domestic partner, or to share a room with a spouse or domestic partner if both are residents for the same facility; privacy concerning health care; confidentiality of health and personal records; and the right to approve or refuse their release to any individual outside the facility. (Statewide Transition Plan, pg. 72; Summarized from Wis. Stat. § 50.09)

“Any form of coercion to discourage or prevent a resident or the resident’s legal representative from exercising any of the rights under this subchapter is prohibited. Any form of retaliation against a resident or the resident’s legal representative for exercising any of the rights in this subchapter, or against an employee or any other person who assists a resident or the resident’s legal representative in the exercise of any of the resident rights in this subchapter, is prohibited.” (Statewide Transition Plan, pg. 72; Wis. [Admin. Code § DHS 83.32](#))

In addition, each resident shall have all of the following rights: freedom from mistreatment; freedom from seclusion; freedom from chemical restraint; and freedom from physical restraints, except upon prior review and approval by DHS upon written authorization from the resident’s primary physician or advanced practice nurse prescriber. DHS may place conditions on the use of a restraint to protect the health, safety, welfare, and rights of the resident. (Statewide Transition Plan; Summarized from Wis. Admin. Code § DHS 83.32)

Met Unmet Not Applicable

The Ridge Crest Manor Resident Rights policy addresses and ensures each of the requirements of 42 CFR § 441.301(c) (4) (iii).

Individuals are able to have visitors of their choosing at any time. [42 CFR § 441.301(c)(4)(vi)(D)]

Compliance within Wisconsin State Standards and Regulations:

Rights: Residents have the right to private and unrestricted communications with their family, physician or other medical provider, attorney, and any other person, unless documented as medically contraindicated. The right to private and unrestricted communications includes the right to... reasonable access to a telephone for private communications; and the opportunity for private visits. (WI Statewide Transition Plan; Summarized from Wis. Stat. § 50.09)

Met Unmet Not Applicable

Residents may have visitors and/or leave the facility at any time. Guests are invited to meals. Arrangements can be made for larger groups to visit in private. Overnight guests are discouraged due to space limitations. The visiting policy is communicated with families and residents upon admission.

Individuals have access to food at any time.

Compliance within Wisconsin State Standards and Regulations:

The CBRF must provide each resident with palatable food that meets the recommended dietary allowance based on current guidelines, including at least three meals a day and a snack in the evening, or more often based on the resident's dietary needs. If a resident is away during meal time, the CBRF shall offer food to the resident on the resident's return. The CBRF shall make reasonable adjustments to the menu for individual resident likes, habits, customs, condition, and appetites. (Summarized from Wis. Admin. Code § DHS 83.41)

Met Unmet Not Applicable

The setting provides three meals each day and an evening snack. Residents may keep other food in marked containers in the refrigerator in the shared kitchenette, available 24/7. Residents may have a mini-fridge if they would like one in their room.

The living unit is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services:

- The individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the applicable landlord/tenant laws.
- The State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law. [42 CFR § 441.301(c)(4)(vi)(A)].

Compliance within Wisconsin State Standards and Regulations:

"Each resident shall have a written agreement that is signed by and provided to each party. The agreement includes a description of the space to be provided to the resident, the agreed upon rate, a statement of the resident's rights and the terms of termination, including timeframes. The agreement is updated annually." ([WI Statewide Transition Plan](#), pg. 77; [Wis. Admin. Code § DHS 83.29](#))

The agreement must include terms for resident notification to the CBRF of voluntary discharge, and reasons and notice requirements for involuntary discharge or transfer, including transfers within the CBRF. (Summarized from [Wis. Admin. Code § DHS 83.31](#))

Met Unmet Not Applicable

The Residence and Service Agreement (admission agreement), the Information document, and the Retention Criteria document specify the approved procedure to protect the resident's rights and protections from eviction.

Overcoming Institutional Presumption

The setting demonstrated a meaningful physical distinction between the HCBS setting and the institutional setting, including separate entrances and signage, physical divisions, and differences in décor.

Met Unmet Not Applicable

While the facilities share a main entrance, Ridge Crest Manor and the SNF are on opposite sides of the building and separated by a dividing corridor offering services to residents of the campus and the community at large. These services include an outpatient therapy clinic, a beauty barbershop and a large community room. There is separate outdoor signage and another entrance solely to Ridge Crest Manor (CBRF). Indoor signage clearly marks the distinct directions to each facility and inside entrance to Ridge Crest Manor (CBRF).

Each individual has privacy in their sleeping or living unit.

Compliance within Wisconsin State Standards and Regulations:

Residents must be provided with “physical and emotional privacy in treatment, living arrangements, and in caring for personal needs” including, privacy for visits by spouse or domestic partner, or to share a room with a spouse or domestic partner if both are residents for the same facility; privacy concerning health care; confidentiality of health and personal records; and the right to approve or refuse their release to any individual outside the facility. (Statewide Transition Plan; Summarized from Wis. Stat. § 50.09)

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance surveyors that the setting (DQA, [F-02138](#), HCBS Compliance Review):

- Provides lockable key entry doors on all resident rooms, and individual keys to all residents.
- Has a policy ensuring that staff uses facility keys to enter a resident’s room only under circumstances agreed upon with the resident.

Met Unmet Not Applicable

All units in the CBRF are private single occupancy rooms. Some rooms may be shared with a spouse or sibling if requested

Individual living units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.

Compliance within Wisconsin State Standards and Regulations

Locks on living unit doors allow the resident to exercise his or her right to privacy and personal choice. Staff in each residential setting should always knock and receive permission prior to entering a resident’s living space. DHS expects the residential setting to have a policy in place to ensure that staff always knock and receive permission prior to entering a resident’s room or personal living space to respect residents’ rights to privacy. Please refer to DHS’ [Frequently Asked Questions \(FAQs\) about Door Locks in Adult Long-Term Care Residential Settings](#) for additional lock-related information.

Met Unmet Not Applicable

The Ridge Crest Manor Resident Unit Key policy specifies that each resident has a key to his or her room and that staff may carry a master key in response to an emergency. Staff members are required to knock and announce themselves before entering a resident’s living unit. Routine notice is given if maintenance of the unit is required.

Individuals sharing units have a choice of roommates in that setting.

Compliance within Wisconsin State Standards and Regulations

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance surveyors that residents have choice of roommates (DQA, [F-02138](#), HCBS Compliance Review):

Person-Centered Planning: Family Care Provider Network, I. Access to Providers: “For residential care facilities, evidence of adequate capacity shall include identification of the availability of residential providers offering private rooms, and a process for moving an individual to a private room when one becomes available that is consistent with the member’s preferences.” ([DHS-MCO Contract, Article VIII, I\(6\)d](#))

Met Unmet Not Applicable

Rooms are private single occupancy but spouses and siblings may share a room if requested.

Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement. [42 CFR § 441.301(c)(4)(vi)(B)(1-3)]

Compliance within Wisconsin State Standards and Regulations

Every resident in a community-based residential facility shall have the right to retain and use personal clothing and effects and to retain, as space permits, other personal possessions in a reasonably secure manner. (Summarized from Wis. Stat. § 50.09)

Met Unmet Not Applicable

Ridge Crest Manor residents may bring in their own furniture as approved. They may decorate as they wish keeping in mind safety concerns.

The setting is physically accessible to the individual. [42 CFR § 441.301(c)(4)(vi)(E)]

Compliance within Wisconsin State Standards and Regulations

The bedroom and congregate dining and living area for any resident requiring a specified level of care and who is blind or not fully ambulatory shall be on the first floor. (Summarized from Wis. Admin. Code § DHS 83.50)

Bedrooms shall be designed and equipped to allow residents to achieve the highest level of independent functioning and shall be fully accessible to the resident. Within the bedroom, each resident shall have, or be provided with a closet or wardrobe with clothes hanging rods and shelves, and drawer space adequate to reasonably meet the needs of the resident. The bedroom shall have adequate accessible space for a resident's wheelchair or other adaptive or prosthetic equipment. (Summarized from Wis. Admin. Code § DHS 83.54)

Met Unmet Not Applicable

Newly built in 2013, the CBRF is physically accessible.

Operational Distinction

The setting demonstrated meaningful operational distinction between the institution and the community-based setting, such as minimal administrative and financial interconnectedness.

Met Unmet Not Applicable

The organizational chart for the Colfax Health and Rehabilitation Center shows management and staffing separation. Financial documents demonstrate the financial separation of the three settings: 28-bed Ridge Crest Manor CBRF, 28-bed Colfax Health and Rehab skilled nursing facility, and the 12 unit Sandy Ridge Assisted Living Apartments RCAC.

There is a distinction between staff for the HCBS setting and the institutional setting. Staff working in the HCBS setting receive initial and ongoing training on HCBS settings rule requirements and principles, and person-centered planning.

Met Unmet Not Applicable

The Resident Rights policy states that staff are trained on the rights of residents and the Person Centered Care Planning Philosophy and Process. In Wisconsin, CBRFs are regulated by the Department of Health Services and the rules for CBRFs are outlined in the State Statute, specifically

<http://www.legis.wi.us/rsb/code/dhs083.pdf> Chapter DHS 83.

DHS Recommendation

DHS finds that Ridge Crest Manor possesses the required home and community-based characteristics, is not isolating in nature, and overcomes the presumption of having institutional qualities.

Please note that these findings are preliminary only and must receive final approval from CMS.

In accordance with federal requirements, all compliance results will be made public by DHS. The decision will appear on the subsequent upload of facility information to DHS websites, including the [DQA Provider Search webpage](#) and the provider directories available at the [Consumer Guide to Health Care – Finding and Choosing an Assisted Living Facility webpage](#).

Ongoing Compliance

Wisconsin's Division of Quality Assurance (DQA) will ensure through ongoing compliance reviews that [Ridge Crest Manor](#) continues to meet the requirements of the HCBS Settings Rule. The DMS Bureau of Assisted Living (BAL) has incorporated the HCBS settings rule into its current assisted living survey process and activities. ([DQA Implementation of Home and Community-Based Services Settings Rule in Residential Assisted Living Facilities](#))

The Wisconsin Department of Health Services (DHS) and work within the requirements of contracts with DHS certify waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies –. State licensed settings are subject to unannounced licensing visits, both in response to complaints and during regular oversight visits, by the state licensing authority, or by the entity that certified the provider if not regulated by the state. As part of these periodic licensing or certification reviews, the credentialing entity will also review the setting for continued HCBS compliance. Providers will be required to address any HCBS rule deficiencies.

When HCBS participants are resident in the setting, waiver program care managers are required to have ongoing contact, including face-to-face visits, at which time any areas of concern would be identified and addressed. Each participant in a Medicaid home and community-based waiver program is further protected through the state's long-term care ombudsman program, which has regular access to the assisted living setting. [Wisconsin's Board on Aging & Long Term Care](#): The Board on Aging and Long Term Care advocates for the interests of Wisconsin's long-term care consumers, informs those consumers of their rights and educates the public about health care systems and long-term care. The Board also operates the [Long Term Care Ombudsman](#), and [Volunteer Ombudsman](#) services.

EVIDENTIARY ASSESSMENT AND SUMMARY
Home and Community-Based Services (HCBS) Settings Rule
Heightened Scrutiny Review – Community-Based Residential Facility (CBRF)

Facility Name Schmitt Woodland Hills Inc., dba Westview Assisted Living		Facility Type Community-Based Residential Facility (CBRF)	
Corporate Name (if applicable) Schmitt Woodland Hills Inc.		License/Certification # 110230	County Richland
Facility Address 1400 West Seminary St	City Richland Center	State WI	Zip Code 53581
Primary Contact Name: Jackie Carley	Primary Contact Direct Phone (incl. area code) 608-647-8931	Primary Contact Email Address: Jackie.carley@mwt.net	
Facility Website Address https://schmittwoodlandhills.com/			

Reason for Institutional Presumption

- Settings in a publicly or privately operated facility that provides inpatient institutional treatment. Name of institution: Schmitt Woodland Hills
- Settings in a building on the grounds of, or adjacent to, a public institution. Name of institution:
- Settings with the effect of isolating individuals from the broader community of individuals not receiving HCBS waiver services.

The Centers for Medicare and Medicaid Services' (CMS) HCBS settings rule assumes that certain settings are not home and community-based. If a Wisconsin assisted living facility (setting) meets one of the criteria for institutional presumption as defined above, the DHS Division of Medicaid Services (DMS) conducts a heightened scrutiny review.

DMS believes that Schmitt Woodland Hills has overcome the institutional presumption and meets the criteria of a home and community-based services setting as summarized below.

Facility Summary:

Schmitt Woodland Hills, named after the benefactors whose dream was to build a retirement center in their community, opened in the mid-1960's, and now offers a full continuum of care. The campus includes 35 independent living apartments, the Westview Assisted Living is a licensed community-based residential facility (CBRF), with 26 private rooms and 2 suites. Schmitt Woodland Hills is a licensed, Medicare-approved 50-bed health center providing 24-hour skilled care for both rehab and long-term care. The CBRF and the SNF are on opposite ends of the building with separate entrances and parking areas. Westview Assisted Living has 12 residents who are MA supported through the family care program.

The 40-acre campus is located about five blocks from downtown Richland Center with several apartment buildings nearby and a golf course with a restaurant and bar across the road. It is a two-to-three block walk to a park on the Pine River offering trout and water sports. The nearby bluffs are a hiker's dream.

Richland Center is the county seat of rural Richland County and is located halfway between Madison and La Crosse, about 60 miles from each. Both cities are major hubs for shopping, entertainment and healthcare. Richland County, population just over 5,000, is a rural area with rolling hills and farmland.

The setting is integrated in and supports full access to the greater community [42 CFR § 441.301(c)(4)(i)].

The community considers the setting a part of their community and does not associate the setting with institutional services.

Met Unmet Not Applicable

Schmitt Woodland Hills is a 501(c)(3) not-for-profit organization. The Board of Directors consists of a 12-member community volunteer board. There are no owners, shareholders or investors and all funds received directly support the mission and serve all faiths. The site was chosen for its proximity to the community and at the time of the first open house in 1964, the campus welcomed fifteen hundred visitors from sixty-five Wisconsin communities and beyond. Over the years Schmitt Woodland Hills evolved to a continuum of care community including 35 independent living apartments, Westview Assisted Living, and a 50-bed SNF. Testimonials confirm that residents are often out and about in the community.

Individuals, to the extent they desire, have opportunities to participate in typical community life activities outside of the setting.

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning: The plan must be based on an assessment that addresses the person's "capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known" and "social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs." (Summarized from [Wis. Admin. Code § DHS 83.35](#))

Program Services: Community activities. The CBRF shall provide information and assistance to facilitate participation in personal and community activities. The CBRF shall develop, update and make available to all residents, monthly schedules and notices of community activities, including costs. ([Wis. Admin. Code § DHS 83.38\(1\)\(d\)](#))

Family and social contacts: The CBRF shall encourage and assist residents in maintaining family and social contacts. (Wis. Admin. Code § DHS 83.38(1)(e))

Met Unmet Not Applicable

At Westview Assisted Living, it is stressed in all materials that community members are welcome to participate in all activities and that residents are encouraged to participate in offsite activities in the community. One Testimonial from a community member states "The WV residents are able to be part of the community at large. They use our excellent medical center and hospital. They go to local beauty and barber shops if they wish. Many are able to attend their local churches. We see residents at local restaurants and at local theater and music productions. They are eager participants at family events. Residents go to and participate in local parades and fund raisers. Some use the Symons Recreation Center for fitness and swimming pool classes. Schmitt has several trishaws*, so we often see residents out "biking" around the community several miles from WV in the open air with a pilot/guide just behind doing the pedaling." All activities on campus are open to the general public as well and community members are encouraged to participate. *A person who uses a wheelchair is able to utilize the trishaws

Activities are individualized or include more than just setting-based group activities

Met Unmet Not Applicable

Westview Assisted Living resident testimonial: "I have my own room and restroom. I am able to come and go as I please. I go out to... see my own doctor. I go out and get my hair done at my own hairdresser in Richland Center. I go out with my family to church and then we always go out to eat afterwards. Keeping up my strength is very important and so I go out to Symons Recreation Complex in Richland Center and do a Senior Water Aerobics class with

other members of the Richland Center community. I love to go to family weddings, birthdays, etc. and I do that as often as I feel up to it. My family is very involved in my life and I in theirs. I go to be with my family for holidays and as I said above all family get-togethers in the community that I feel up to. I participate in anything that I want to in the community. Living in WV is the same as living in an apt. I have a key to lock my door. I have my own restroom and living area. I participate in community events and in events in WV as well. It is a wonderful place to live and still be part of the larger community. I definitely view Westview as part of the Richland Center Community and not a facility of any kind.”

The setting supports access to community activities through its own transportation or coordination of transportation options.

Met Unmet Not Applicable

The Westview Assisted Living *Transportation Policy* states public transportation options include the ADRC transportation program and public taxi service which can accommodate a wheelchair. *House Calls* program, operated by the facility, offers transportation services if needed. Parking is available for residents who have their own vehicle. Friends and family often provide transportation as well. Schmitt has several trishaws*, so Westview residents are often seen out “biking” around the community or on the bike trails in the open air with a pilot/guide just behind doing the pedaling.” *A person who uses a wheelchair is able to utilize the trishaws

Individuals, if they choose, have opportunities to seek employment and work in competitive integrated settings.

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning:

The plan must be based on an assessment that addresses the person’s “capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known” and “social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs.” ([WI Statewide Transition Plan](#); Summarized from [Wis. Admin. Code § DHS 83.35](#))

From contract between DHS and specific MCOs:

V. Care Management:

C. Assessment and Member-Centered Planning Process

C.1. Comprehensive Assessment

C.1.(c) Documentation: The comprehensive assessment will include documentation by the IDT staff of:

C.1.(c)(viii) An exploration with the member of the member’s preferences and opportunities for community integration including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community.

C.3. Member-Centered Planning

C.3.(c)(iv)(g) The setting in which the member resides supports integration into 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.

VII. Services

A. General Provisions

1. Comprehensive Service Delivery System

c. Serve to maintain community connections, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, and that are cost effective.

Addendum I

It is the DHS's "expectation under this contract that benefits will be fully integrated and will afford options that foster opportunities for interaction and integration into 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 while supporting each member's individual outcomes and recognizing each member's preferences."

Met Unmet Not Applicable

Westview residents control their own schedules and activities. Though most are retired, residents are not required or encouraged to discontinue employment or volunteer activities of their choice. One testimonial includes a statement that she volunteers in community parades, for example. The setting supports and encourages maximum independence and autonomy.

Individuals are able to control their personal resources.

Compliance within Wisconsin State Standards and Regulations

Every resident in a community-based residential facility has the right to "manage the resident's own financial affairs, unless the resident delegates, in writing, such responsibility to the facility and the facility accepts the responsibility or unless the resident delegates to someone else of the resident's choosing and that person accepts the responsibility." (Statewide Transition Plan; [Wis. Stat. § 50.09](#))

Met Unmet Not Applicable

Westview residents are in charge of their own funds. The Resident Handbook states residents may keep their own funds, use their own bank, or may voluntarily deposit funds in an account managed by the facility and said funds would be available during business hours and at other times with prior arrangement.

Choice, Independence, and Person-Centered Planning

The setting is selected by the individual from among setting options including non-disability specific settings. [42 CFR § 441.301(c)(4)(ii)]

Compliance within Wisconsin State Standards and Regulations

Wisconsin has protections in place for Medicaid waiver participants which ensure they understand their choices. DHS waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are responsible for discussing choice of service settings with the waiver participant and family/guardian to locate the most suitable provider setting, including a discussion of living in a non-disability specific setting. In practice, the waiver agencies are complying with this requirement, and documenting and monitoring the choice of settings in the member-centered plan or IRIS support and service plan, as applicable.

In Wisconsin, the choice of setting requirement is not the initial responsibility of the provider setting. Rather the choice of setting takes place through the person-centered planning process at the waiver agency level. Waiver agencies are certified by DHS and work within the requirements of contracts with DHS. Through ongoing monitoring, Wisconsin will ensure that individuals maintain the right to choose where they reside.

Additionally, Wisconsin has protections in place through *Pre-Admission Consultation (PAC)*: <https://www.dhs.wisconsin.gov/adrc/pros/pac.htm>

"Pre-admission consultation is a service provided by Aging and Disability Resource Centers (ADRCs) to individuals who are in the process of considering or making a decision about the need to move out of his or her home in order to receive the help they need to remain independent and safe. Sometimes people are unaware that there are services and supports that can be provided right in their own home, often making a move unnecessary. Those who want to move into a nursing home or assisted living facility (such as a community based residential facility or residential care apartment complex), can find it difficult to know which facility would be the best for them or a loved one."

Met Unmet Not Applicable

Westview residents have a choice of services and providers. Documents submitted confirm tenants' rights, privacy, and support of self-reliance, self-direction and tenant autonomy. These materials detail apartment rent and choice of service levels based on individual assessment and choice. The services agreement states that ISPs are mutually developed with the resident. If financing from other sources becomes necessary, referrals are made to the ADRC.

The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and resources available for room and board. [42 CFR § 441.301(c)(4)(ii)]

Compliance within Wisconsin State Standards and Regulations

"COMPREHENSIVE INDIVIDUAL SERVICE PLAN Individual service plan review. Annually or when there is a change in a resident's needs, abilities or physical or mental condition, the individual service plan shall be reviewed and revised based on the assessment under sub. (1). All reviews of the individual service plan shall include input from the resident or legal representative, case manager, resident care staff, and other service providers as appropriate." ([Wis. Admin. Code § DHS 83.35 \(1\)\(d\)](#))

Met Unmet Not Applicable

Westview tenants sign an admission agreement and an agreed upon a service plan. Tenants have autonomy and independence in making life choices including daily activities, their physical environment, and with whom to interact. Photographs show individual decorations and furnishings in the apartments. Resident furnishings may include a small refrigerator. A kitchenette area near the main dining area is available for resident use. Food is available 24/7. When private pay residents find it necessary, they are referred to the ADRC for assistance in applying for public funding.

The setting facilitates choice regarding services and supports, and who provides them. Individuals have a choice in selecting their service providers, and are not reliant on services from the institution to the exclusion of other community-based options. Individuals can choose to receive services in the community to the same degree as individuals not receiving Medicaid HCBS. [42 CFR § 441.301(c)(4)(v)].

Compliance within Wisconsin State Standards and Regulations

Before or at the time of admission, the CBRF shall provide written information regarding services available and the charges for those services to each resident or the resident's legal representative. This information shall include any charges for services not covered by the daily or monthly rate..." (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.29](#))

Person-Centered Planning:

- "Options of services, providers, and settings, including non-disability specific settings, are offered to participants in all Wisconsin HCBS programs." (WI Statewide Transition Plan; Summarized from Wis. HCBS waivers, waiver-specific contracts, and policy documents.)
- Residents have the right to "use the licensed, certified or registered provider of health care and pharmacist of the resident's choice." ([Wis. Stat. § 50.09](#))

Met Unmet Not Applicable

Westview staff provide resource information to residents about a variety of services in the community including health services. Residents see their own physicians and other medical and service providers. Though some services like beautician or barber services may be available on campus, residents can obtain these and any other services wherever they choose in the community. A Westview resident may also choose to use outside providers for other services. The admission agreement specifies the procedure to obtain approval for an outside provider.

The setting optimizes, but does 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 [42 CFR § 441.301(c)(4)(iv)]

Compliance within Wisconsin State Standards and Regulations

Rights: Licensees must protect the civil rights of residents. Residents have the right to make decision relating to care, activities, daily routines, and other aspects of life that enhance the resident's self-reliance and support the resident's autonomy and decision-making. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.32](#))

Person-Centered Planning: The plan must be based on an assessment that addresses the person's capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known, and social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts, and vocational needs. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.35](#))

"The CBRF shall teach residents the necessary skills to achieve and maintain the resident's highest level of functioning." The CBRF shall provide or arrange services adequate to meet the needs of the residents including providing leisure time activities, facilitating participation in community activities, and encouraging and assisting residents in maintaining family and social contacts. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.38](#))

Rights: Residents have the right to make decisions relating to care, activities, daily routines, and other aspects of life that enhance the resident's self-reliance and support the resident's autonomy and decision making, and have the least restrictive conditions necessary to achieve the purposes of the resident's admission. The CBRF may not impose a curfew, rule, or other restriction on a resident's freedom of choice. (Statewide Transition Plan; Summarized from Wis. Admin. Code § DHS 83.32)

Met Unmet Not Applicable

Westview tenants have autonomy and independence in making life choices including daily activities, their physical environment, and with whom to interact. Photographs show individual decorations and furnishings in the apartments. Resident furnishings may include a small refrigerator. A kitchenette area near the main dining area is available for resident use. Food is available 24/7. Friends and family are invited to participate in meals and several more private room options are available for gatherings.

Individuals have the freedom and support to control their own schedules and activities [42 CFR § 441.301(c)(4)(vi)(C)]

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning: The plan must be based on an assessment that addresses the person's "capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known" and "social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs." (Statewide Transition Plan, pg. 72; Summarized from Wis. Admin. Code § DHS 83.35)

Rights: Licensees must protect the civil rights of residents. Residents have the right to make decision relating to care, activities, daily routines, and other aspects of life that enhance the resident's self-reliance and support the resident's autonomy and decision-making. (Summarized from Wis. Admin. Code § DHS 83.32)

Met Unmet Not Applicable

The Westview Resident Handbook states that all residents of the CBRF are free to come and go as they wish. Individual plans of care includes discussion of activity preferences and interests. Participation in onsite and offsite activities planned by the campus activity department is by choice. Residents choose daily activities as they wish.

The setting ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint [42 CFR § 441.301(c)(4)(iii)]

Compliance within State Standards:

Rights: Residents have the right to be “treated with courtesy, respect and dignity by all employees of the facility and other providers of health care and pharmacists with whom the resident comes in contact.” ([Statewide Transition Plan](#), pg. 72; Summarized from [Wis. Stat. § 50.09](#))

Residents must be provided with “physical and emotional privacy in treatment, living arrangements, and in caring for personal needs” including, privacy for visits by spouse or domestic partner, or to share a room with a spouse or domestic partner if both are residents for the same facility; privacy concerning health care; confidentiality of health and personal records; and the right to approve or refuse their release to any individual outside the facility. (Statewide Transition Plan, pg. 72; Summarized from Wis. Stat. § 50.09)

“Any form of coercion to discourage or prevent a resident or the resident’s legal representative from exercising any of the rights under this subchapter is prohibited. Any form of retaliation against a resident or the resident’s legal representative for exercising any of the rights in this subchapter, or against an employee or any other person who assists a resident or the resident’s legal representative in the exercise of any of the resident rights in this subchapter, is prohibited.” (Statewide Transition Plan, pg. 72; Wis. [Admin. Code § DHS 83.32](#))

In addition, each resident shall have all of the following rights: freedom from mistreatment; freedom from seclusion; freedom from chemical restraint; and freedom from physical restraints, except upon prior review and approval by DHS upon written authorization from the resident’s primary physician or advanced practice nurse prescriber. DHS may place conditions on the use of a restraint to protect the health, safety, welfare, and rights of the resident. (Statewide Transition Plan; Summarized from Wis. Admin. Code § DHS 83.32)

Met Unmet Not Applicable

The Westview Assisted Living *Resident Rights* policy addresses and ensures each of the requirements of 42 CFR § 441.301(c)(4)(iii).

Individuals are able to have visitors of their choosing at any time [42 CFR § 441.301(c)(4)(vi)(D)]

Compliance within Wisconsin State Standards and Regulations

Rights: Residents have the right to private and unrestricted communications with their family, physician or other medical provider, attorney, and any other person, unless documented as medically contraindicated. The right to private and unrestricted communications includes the right to... reasonable access to a telephone for private communications; and the opportunity for private visits. (WI Statewide Transition Plan; Summarized from Wis. Stat. § 50.09)

Met Unmet Not Applicable

Westview residents may have visitors of their choice at any time. They may entertain visitors in their unit or in the common areas inside and outside the building. Visitors are encouraged to participate in any of the campus activities. Residents may have overnight guest with prior approval.

Individuals have access to food at any time

Compliance within Wisconsin State Standards and Regulations

The CBRF must provide each resident with palatable food that meets the recommended dietary allowance based on current guidelines, including at least three meals a day and a snack in the evening, or more often based on the resident’s dietary needs. If a resident is away during meal time, the CBRF shall offer food to the resident on the resident’s return. The CBRF shall make reasonable adjustments to the menu for individual resident likes, habits, customs, condition, and appetites. (Summarized from Wis. Admin. Code § DHS 83.41)

Met Unmet Not Applicable

Three meals a day are provided in the dining room. Westview residents may receive a meal in their room for an added fee if they wish unless they are ill and it is requested that they stay in their room for a period of time. Resident furnishings may include a small refrigerator. A kitchenette area near the main dining area is available for resident use. If a resident will be returning after a meal time, they can request the meal be held until they return. Food is available 24/7.

Individuals occupy the setting under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity [42 CFR § 441.301(c)(4)(vi)(A)]

Compliance within Wisconsin State Standards and Regulations

“Each resident shall have a written agreement that is signed by and provided to each party. The agreement includes a description of the space to be provided to the resident, the agreed upon rate, a statement of the resident’s rights and the terms of termination, including timeframes. The agreement is updated annually.” ([WI Statewide Transition Plan](#), pg. 77; [Wis. Admin. Code § DHS 83.29](#))

The agreement must include terms for resident notification to the CBRF of voluntary discharge, and reasons and notice requirements for involuntary discharge or transfer, including transfers within the CBRF. (WI Statewide Transition Plan, pg. 77; Summarized from Wis. Admin. Code § DHS 83.31)
State licensed settings are subject to unannounced licensing visits, both in response to complaints and during regular oversight visits. Through ongoing HCBS monitoring, Wisconsin will ensure that individuals maintain the right to make such choices while residing in this state-licensed community-based residential facility. Additionally, the state’s long-term care ombudsman program has regular access to the setting.

Met Unmet Not Applicable

The Westview Assisted Living *Residence and Services* agreement meets the licensing requirements of WI Admin Code DHS 83.29. Residents must meet and agree to the Admission/Retention and Discharge Criteria.

Overcoming Institutional Presumption

The setting demonstrated a meaningful physical distinction between the HCBS setting and the institutional setting, including separate entrances and signage, physical divisions, and differences in décor.

Met Unmet Not Applicable

Westview provided signage and entrance photos to the facility showing a separate and distinct entrance from the entrance to the SNF. Photos of resident units and common areas distinctly separate from the SNF and the independent apartments were submitted. There are separate outdoor areas as well. Though the two settings are under the same roof, there are offices, a therapy area, beauty shop and other public common areas between the two facilities, as noted on the submitted floor plan.

Each individual has privacy in their sleeping or living unit.

Compliance within Wisconsin State Standards and Regulations:

Residents must be provided with “physical and emotional privacy in treatment, living arrangements, and in caring for personal needs” including, privacy for visits by spouse or domestic partner, or to share a room with a spouse or domestic partner if both are residents for the same facility; privacy concerning health care; confidentiality of health and personal records; and the right to approve or refuse their release to any individual outside the facility. (Statewide Transition Plan; Summarized from Wis. Stat. § 50.09)

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance surveyors that the setting (DQA, [F-02138](#), HCBS Compliance Review):

- Provides lockable key entry doors on all resident rooms, and individual keys to all residents.
- Has a policy ensuring that staff uses facility keys to enter a resident’s room only under circumstances agreed upon with the resident.

Met Unmet Not Applicable

Westview has two two-room suites with a full bathroom for privacy. The other 26 private rooms have a partial bathroom with a toilet and sink. Westview residents have the ability to lock the door to their room at any time. Staff do not enter the room until after they have knocked and have been invited in. In the event of an emergency, staff have access to a key. Private baths and showers are available in the spa room. Some residents choose to have assistance and others choose to be alone. The spa room is used by one person at a time and is locked when in use.

Individual living units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.

Compliance within Wisconsin State Standards and Regulations

Locks on living unit doors allow the resident to exercise his or her right to privacy and personal choice. Staff in each residential setting should always knock and receive permission prior to entering a resident’s living space. DHS expects the residential setting to have a policy in place to ensure that staff always knock and receive permission prior to entering a resident’s room or personal living space to respect residents’ rights to privacy. Please refer to DHS’ [Frequently Asked Questions \(FAQs\) about Door Locks in Adult Long-Term Care Residential Settings](#) for additional lock-related information.

Met Unmet Not Applicable

All Westview residents have access to a key and have the ability to lock the door to their room at any time. Policies and agreements provide for staff to have access to a key in the event of an emergency. Staff do not enter rooms in Westview without knocking and being invited in to the room by the resident. The main entrance to Westview is locked at night but if the resident does not have their key, they can ring the doorbell to be buzzed in. The key policy was submitted.

Individuals sharing units have a choice of roommates in that setting.

Compliance within Wisconsin State Standards and Regulations

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance surveyors that residents have choice of roommates (DQA, [F-02138](#), HCBS Compliance Review):

Person-Centered Planning: Family Care Provider Network, I. Access to Providers: “For residential care facilities, evidence of adequate capacity shall include identification of the availability of residential providers offering private rooms, and a process for moving an individual to a private room when one becomes available that is consistent with the member’s preferences.” ([DHS-MCO Contract, Article VIII, I\(6\)d](#))

Met Unmet Not Applicable

Two suites are available for singles or two people who wish to share the unit. The other 26 units at Westview are single, private units and include a private toilet and sink. A private spa room is available for showers and baths.

Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement. [42 CFR § 441.301(c)(4)(vi)(B)(1-3)]

Compliance within Wisconsin State Standards and Regulations

Every resident in a community-based residential facility shall have the right to retain and use personal clothing and effects and to retain, as space permits, other personal possessions in a reasonably secure manner. (Summarized from Wis. Stat. § 50.09)

Met Unmet Not Applicable

Westview residents may provide their own furnishings and decorate their unit as they wish. Photos of resident units confirm personal furnishings and décor.

The setting is physically accessible to the individual [42 CFR § 441.301(c)(4)(vi)(E)]

Compliance within Wisconsin State Standards and Regulations

The bedroom and congregate dining and living area for any resident requiring a specified level of care and who is blind or not fully ambulatory shall be on the first floor. (Summarized from Wis. Admin. Code § DHS 83.50)

Bedrooms shall be designed and equipped to allow residents to achieve the highest level of independent functioning and shall be fully accessible to the resident. Within the bedroom, each resident shall have, or be provided with a closet or wardrobe with clothes hanging rods and shelves, and drawer space adequate to reasonably meet the needs of the resident. The bedroom shall have adequate accessible space for a resident's wheelchair or other adaptive or prosthetic equipment. (Summarized from Wis. Admin. Code § DHS 83.54)

Met Unmet Not Applicable

Westview is physically accessible and meets all standards.

The living unit is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services.

- The individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the applicable landlord/tenant laws.
- The State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law [42 CFR § 441.301(c)(4)(vi)(A)].

Compliance within Wisconsin State Standards and Regulations

"Each resident shall have a written agreement that is signed by and provided to each party. The agreement includes a description of the space to be provided to the resident, the agreed upon rate, a statement of the resident's rights and the terms of termination, including timeframes. The agreement is updated annually." ([Wis. Admin. Code § DHS 83.29](#))

The agreement must include terms for resident notification to the CBRF of voluntary discharge, and reasons and notice requirements for involuntary discharge or transfer, including transfers within the CBRF. (Summarized from [Wis. Admin. Code § DHS 83.31](#))

Met Unmet Not Applicable

The Westview Assisted Living Residence and Services agreement meets the licensing requirements of WI Admin Code DHS 83.29. Residents must meet and agree to the Admission/Retention and Discharge Criteria.

Operational Distinction

The setting demonstrated meaningful operational distinction between the institution and the community-based setting, such as minimal administrative and financial interconnectedness.

Met Unmet Not Applicable

The Westview Assisted Living organizational chart submitted. CBRF revenue and expense forms submitted. Both are documentation that there is a meaningful distinction between the institution and the CBRF setting. This is evidence of minimal administrative and financial interconnectedness and the residents of Westview are not reliant on services from the institution to the exclusion of other options.

There is a distinction between staff for the HCBS setting and the institutional setting. Staff working in the HCBS setting receive initial and ongoing training on HCBS settings rule requirements and principles, and person-centered planning.

Met Unmet Not Applicable

Both orientation for new employees and subsequent training includes review and discussion of what HCBS means, review and discussion of the Westview *Resident Handbook*, and review and discussion of *Resident Rights*.

DHS Recommendation

DHS finds that Schmitt Woodland Hills Inc., dba Westview Assisted Living possesses the required home and community-based characteristics, is not isolating in nature, and overcomes the presumption of having institutional qualities.

Please note that these findings are preliminary only and must receive final approval from CMS.

In accordance with federal requirements, all compliance results will be made public by DHS. The decision will appear on the subsequent upload of facility information to DHS websites, including the [DQA Provider Search webpage](#) and the provider directories available at the [Consumer Guide to Health Care – Finding and Choosing an Assisted Living Facility webpage](#).

Ongoing Compliance

Wisconsin's Division of Quality Assurance (DQA) will ensure through ongoing compliance reviews that Schmitt Woodland Hills Inc., dba Westview Assisted Living continues to meet the requirements of the HCBS Settings Rule. The DMS Bureau of Assisted Living (BAL) has incorporated the HCBS settings rule into its current assisted living survey process and activities. ([DQA Implementation of Home and Community-Based Services Settings Rule in Residential Assisted Living Facilities](#))

Waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are certified by the Wisconsin Department of Health Services (DHS) and work within the requirements of contracts with DHS. State licensed settings are subject to unannounced licensing visits, both in response to complaints and during regular oversight visits, by the state licensing authority, or by the entity that certified the provider if not regulated by the state. As part of these periodic licensing or certification reviews, the credentialing entity will also review the setting for continued HCBS compliance. Providers will be required to address any HCBS rule deficiencies.

When HCBS participants are resident in the setting, waiver program care managers are required to have ongoing contact, including face-to-face visits, at which time any areas of concern would be identified and addressed. Each participant in a Medicaid home and community-based waiver program is further protected through the state's long-term care ombudsman program, which has regular access to the assisted living setting. [Wisconsin's Board on Aging & Long Term Care](#): The Board on Aging and Long Term Care advocates for the interests of Wisconsin's long-term care consumers, informs those consumers of their rights and educates the public about health care systems and long-term care. The Board also operates the [Long Term Care Ombudsman](#), and [Volunteer Ombudsman](#) services.

EVIDENTIARY ASSESSMENT AND SUMMARY
Home and Community-Based Services (HCBS) Settings Rule
Heightened Scrutiny Review – Community-Based Residential Facility (CBRF)

Facility Name The Seasons		Facility Type Community-Based Residential Facility (CBRF)	
Corporate Name (if applicable) Plum City Care Center		License/Certification # 0015047	County Pierce
Facility Address 301 Cherry Ave W	City Plum City	State WI	Zip Code 54761
Primary Contact Name Carla Hutter	Primary Contact Direct Phone (include area code) 715-647-2169	Primary Contact Email Address chutter@rphfcorp.com	
Facility Website Address https://www.theseasonsassistedliving.com/ Facebook: The Season's Assisted Living			

Reason for Institutional Presumption

- Settings in a publicly or privately operated facility that provides inpatient institutional treatment. Plum City Care Center
- Settings on the grounds of, or adjacent to, a public institution. Name of institution: [Click or tap here to enter text.](#)
- Settings with the effect of isolating individuals from the broader community of individuals not receiving HCBS waiver services.

The Centers for Medicare and Medicaid Services' (CMS) HCBS settings rule assumes that certain settings are not home and community-based. If a Wisconsin assisted living facility (setting) meets one of the criteria for institutional presumption as defined above, the DHS Division of Medicaid Services (DMS) conducts a heightened scrutiny review.

DMS believes that The Seasons has overcome the institutional presumption and meets the criteria of a home and community-based services setting as summarized below.

To reinforce the extent to which Wisconsin's licensing and certification regulations and standards align with and reinforce the HCBS settings rule, the applicable state standard or regulation is included, where applicable, with the compliance review summary below.

Facility Summary

Plum City, population 550, is located in Pierce County, Wisconsin, with a mostly rural population of about 43,000. It is 65 miles from the Minneapolis-St Paul area, and 40 miles in the other direction from Eau Claire. Those cities are frequent destinations for medical care, shopping, and cultural events. Plum City is only 20 miles from the Mississippi river, and all the recreation opportunities the area offers. Native Americans were the first to live in what eventually became Pierce County, as evidenced in the burial mounds near Diamond Bluff, just north on the Mississippi. Indications are that this area has been inhabited for 10,000 to 12,000 years. Pierce County was named for Franklin Pierce, the fourteenth president of the United States. An historical essay states that French traders and

Native Americans traveled the rich hunting grounds in the area over 300 years ago. Then with European settlement about 150 years later, many settlers followed the old St. Antoine Trail east from the Mississippi River to this location, the juncture of the trail and the now Plum Creek, named by Frank Moser for the profusion of plum trees in the area.

Plum City Care Center, built in 1987, is a 50-bed SNF adjoining the 14-bed CBRF, The Seasons, built in 2014. The Seasons replaced an older, now closed, CBRF, which was housed in the convent next to the Catholic Church. At the time, all the residents transferred to the new facility. Plum City is a very small town, everyone knows everyone, and townspeople see the facility as an integral part of the community and does not associate the setting with institutional services. Uphill in a residential neighborhood and only one block from Main Street, residents and community members come and go as they wish. About 40 volunteers participate in different activities on campus and the weekly “happy hour” has so many family and friends joining in the music and fun that it is held in a larger room in the SNF or outside weather permitting.

The setting is integrated in and supports full access to the greater community [42 CFR § 441.301(c)(4)(i)].

The community considers the setting a part of their community and does not associate the setting with institutional services.

Met Unmet Not Applicable

The Seasons, built in 2014, replaced an older, now closed, CBRF, which was housed in the convent next to the Catholic Church. At the time, all the residents transferred to the new facility. Plum City is a very small town and townspeople see the facility as an integral part of the community and does not associate the setting with institutional services. Uphill in a residential neighborhood and only one block from Main Street, residents and community members come and go as they wish.

About forty volunteers participate in different activities on campus and the weekly “happy hour” has so many family and friends joining in the music and fun that it is held in a larger room in the SNF or outside weather permitting. One resident commented on a member- centered plan that her daughter works in the SNF and visits her regularly.

Individuals, to the extent they desire, have opportunities to participate in typical community life activities outside of the setting.

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning: The plan must be based on an assessment that addresses the person’s “capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known” and “social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs.” (Summarized from [Wis. Admin. Code § DHS 83.35](#))

Program Services: Community activities. The CBRF shall provide information and assistance to facilitate participation in personal and community activities. The CBRF shall develop, update and make available to all residents, monthly schedules and notices of community activities, including costs. ([Wis. Admin. Code § DHS 83.38\(1\)\(d\)](#))

Family and social contacts: The CBRF shall encourage and assist residents in maintaining family and social contacts. (Wis. Admin. Code § DHS 83.38(1)(e))

Met Unmet Not Applicable

The Seasons *Program Statement* states, “One of the unique features of The Seasons is the small-town community involvement. Residents have the availability of many different churches, activities like movies and bingo, and birthday and special holiday parties where community members join in and they are provided many opportunities to participate in the Senior Citizen activities, library, American Legion and school activities. The staff assist the resident in pursuing

interests tailored to meet individual needs. Residents can go out whenever they wish and the admission agreement discusses bed hold rates when residents have “home visits, vacations and other voluntary absences.” The Seasons philosophy statement confirms that staff will assist in finding transportation to get to jobs or community events, such as at the school and events provided by local businesses. Local events are posted in the dining room next to the mailboxes, along with a Pierce County resource guide. Calendars are posted for activities in the CBRF and in the SNF and residents may attend any of the activities if they wish.

One of the member center plans says “... enjoys going to town (downtown Plum City) and has agreed to wait until her daughter or staff are able to bring her to complete errands and banking” and further on in the plan “... is able to get out in the community for shopping and doctor appointments, relies on others for transportation if she is unable to walk to her destination, and feels that she is getting out and doing the things she wants to do, family members are diligent in ensuring that (she) has an opportunity to participate in family gatherings and celebrations.” Another member-centered plan has these comments: “she continues to go out in the community on her own, weather permitting, and while staff are concerned about this, as is her family, (she) does not identify this as ‘risky behavior, however, she has agreed to letting staff know when she is going out, and does not attempt to walk to town anymore.”

Activities are individualized or include more than just setting-based group activities.

Met Unmet Not Applicable

The Seasons ISP has specific sections related to activities and social interaction including interaction with others, interpersonal relationships, leisure time activities, family contacts, community contacts and religious activities. The facility is an integral part of the community and residents and community members go back and forth, as they wish. The campus does not have vehicles, so transportation to community activities is either with family and friends, or on their own. At this time, one resident has his own vehicle.

The setting supports access to community activities through its own transportation or coordination of transportation options.

Met Unmet Not Applicable

The Seasons *Program Statement* states that the manager will assist the resident in making appointments and arranging transportation to see their physician as needed. Other transportation options include two medical transport providers, the state contracted MA transport provider, and other transportation providers that may service the Plum City area. Residents rely on family and friends for both medical and recreational transportation and residents may have their own vehicle if they still drive.

Individuals, if they choose, have opportunities to seek employment and work in competitive integrated settings.

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning:

The plan must be based on an assessment that addresses the person’s “capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known” and “social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs.” ([WI Statewide Transition Plan](#); Summarized from [Wis. Admin. Code § DHS 83.35](#)).

From contract between DHS and specific MCOs:

V. Care Management:

C. Assessment and Member-Centered Planning Process

C.1. Comprehensive Assessment

C.1.(c) Documentation: The comprehensive assessment will include documentation by the IDT staff of:

C.1.(c)(viii) An exploration with the member of the member's preferences and opportunities for community integration including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community.

C.3. Member-Centered Planning

C.3.(c)(iv)(g) The setting in which the member resides supports integration into 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.

VII. Services

A. General Provisions

1. Comprehensive Service Delivery System

c. Serve to maintain community connections, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, and that are cost effective.

Addendum I

It is the DHS's "expectation under this contract that benefits will be fully integrated and will afford options that foster opportunities for interaction and integration into 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 while supporting each member's individual outcomes and recognizing each member's preferences."

Met Unmet Not Applicable

The Seasons philosophy statement confirms that staff "would be happy to assist you in finding employment or volunteer options" and suggest the local senior center and village food pantry and "we can assist you with finding transportation to get to jobs or community events." The member-centered plans also discuss employment and education at each review. Comments such as this appear in the MCP: "... is retired and is not interested in returning to work. She does not have an interest in doing volunteer work, but does enjoy being active and interacting with residents and staff. She is involved with her family and does not want to work, and reports that "... she stays busy doing puzzles, attending activities at the (facilities) and doing mall chores (i.e. laundry, tidying room)."

Individuals are able to control their personal resources.

Compliance within Wisconsin State Standards and Regulations

Every resident in a community-based residential facility has the right to "manage the resident's own financial affairs, unless the resident delegates, in writing, such responsibility to the facility and the facility accepts the responsibility or unless the resident delegates to someone else of the resident's choosing and that person accepts the responsibility." (Statewide Transition Plan; [Wis. Stat. § 50.09](#)).

Met Unmet Not Applicable

Resident Rights #7 states the resident has the right to manage their own financial affairs unless they resident delegate in writing this responsibility to the facility or to someone else of the resident is choosing. The Seasons program statement provides that residents will receive assistance in the management of their money upon request. If residents choose, they can keep a lock box in their unit and lock their door anytime they wish. The business office also holds residents funds upon request and transactions may be made during the manager's office hours. In addition, the onsite nurse always has available a cash fund of about \$100 for residents outside of business office hours and tracks any disbursements for resident accounting follow-up by the business office. Residents come and go as they wish and can continue banking in the community at the financial institutions of their choice.

The setting is selected by the individual from among setting options including non-disability specific settings. [42 CFR § 441.301(c)(4)(ii)].

Compliance within Wisconsin State Standards and Regulations

Wisconsin has protections in place for Medicaid waiver participants which ensure they understand their choices. DHS waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are responsible for discussing choice of service settings with the waiver participant and family/guardian to locate the most suitable provider setting, including a discussion of living in a non-disability specific setting. In practice, the waiver agencies are complying with this requirement, and documenting and monitoring the choice of settings in the member-centered plan or IRIS support and service plan, as applicable.

In Wisconsin, the choice of setting requirement is not the initial responsibility of the provider setting. Rather the choice of setting takes place through the person-centered planning process at the waiver agency level. Waiver agencies are certified by DHS and work within the requirements of contracts with DHS. Through ongoing monitoring, Wisconsin will ensure that individuals maintain the right to choose where they reside.

Additionally, Wisconsin has protections in place through *Pre-Admission Consultation (PAC)*: <https://www.dhs.wisconsin.gov/adrc/pros/pac.htm>.

“Pre-admission consultation is a service provided by Aging and Disability Resource Centers (ADRCs) to individuals who are in the process of considering or making a decision about the need to move out of his or her home in order to receive the help they need to remain independent and safe. Sometimes people are unaware that there are services and supports that can be provided right in their own home, often making a move unnecessary. Those who want to move into a nursing home or assisted living facility (such as a community based residential facility or residential care apartment complex), can find it difficult to know which facility would be the best for them or a loved one.”

Met Unmet Not Applicable

The Seasons reservation agreement begins with “I would like to reserve the opportunity to rent a room at The Seasons” and is signed by the applicant. For individuals who are supported with waiver funds, the member centered plan development process, usually in the personal experience preferences section, includes responses such as “continue living at CBRF where she can have assistance from staff when needed” and other sections of member-centered plans “... reports that she feels safe and comfortable in her current living situation,” and reports that “...she does not feel she would be safe living in her own apartment due to risk for falls and medication management.” In addition, another long-term care outcome “would like to live where I feel safe and have assistance as I need it” and “would like to remain living at The Seasons CBRF.” Another states “... (I want to).remain living in The Seasons assisted living facility.”

The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and resources available for room and board. [42 CFR § 441.301(c)(4)(ii)].

Compliance within Wisconsin State Standards and Regulations

“COMPREHENSIVE INDIVIDUAL SERVICE PLAN Individual service plan review. Annually or when there is a change in a resident's needs, abilities or physical or mental condition, the individual service plan shall be reviewed and revised based on the assessment under sub. (1). All reviews of the individual service plan shall include input from the resident or legal representative, case manager, resident care staff, and other service providers as appropriate.” ([Wis. Admin. Code § DHS 83.35 \(1\)\(d\)](#))

Met Unmet Not Applicable

The Seasons reservation agreement begins with “I would like to reserve the opportunity to rent a room at The Seasons” and is signed by the applicant. For individuals who are supported with waiver funds, the member centered plan development process, usually in the personal experience preferences section, includes responses such as “continue living at CBRF where she can have assistance from staff when needed” and in other sections of MCPs “... reports that she feels safe and comfortable in her current living situation... reports that she does not feel she would be safe living in her own apartment due to risk for falls and medication management.” In addition, another long-term care outcome “would like to live where I feel safe and have assistance as I need it” and “would like to remain living at The Seasons CBRF.” Another states “... (I want to) remain living in The Seasons assisted living facility.”

The setting facilitates choice regarding services and supports, and who provides them. Individuals have a choice in selecting their service providers, and are not reliant on services from the institution to the exclusion of other community-based options. Individuals can choose to receive services in the community to the same degree as individuals not receiving Medicaid HCBS. [42 CFR § 441.301(c)(4)(v)]

Compliance within Wisconsin State Standards and Regulations

Before or at the time of admission, the CBRF shall provide written information regarding services available and the charges for those services to each resident or the resident's legal representative. This information shall include any charges for services not covered by the daily or monthly rate (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.29](#)).

Person-Centered Planning

- “Options of services, providers, and settings, including non-disability specific settings, are offered to participants in all Wisconsin HCBS programs.” (WI Statewide Transition Plan; Summarized from Wis. HCBS waivers, waiver-specific contracts, and policy documents.)
- Residents have the right to “use the licensed, certified or registered provider of health care and pharmacist of the resident’s choice.” ([Wis. Stat. § 50.09](#))

Met Unmet Not Applicable

The Seasons’ resident has the right to choose their attending physician, pharmacy, and other services providers. A review of several member-centered plans lists medical providers and contact information for the individuals. One member’s list included providers in Durand – dentist and optometrist, Eau Claire – gastroenterologist, and Chippewa Falls – pharmacy.

The setting optimizes, but does 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. [42 CFR § 441.301(c)(4)(iv)]

Compliance within Wisconsin State Standards and Regulations

Rights: Licensees must protect the civil rights of residents. Residents have the right to make decision relating to care, activities, daily routines, and other aspects of life that enhance the resident’s self-reliance and support the resident’s autonomy and decision-making. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.32](#)).

Person-Centered Planning: The plan must be based on an assessment that addresses the person’s capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known, and social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts, and vocational needs. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.35](#)).

“The CBRF shall teach residents the necessary skills to achieve and maintain the resident’s highest level of functioning.” The CBRF shall provide or arrange services adequate to meet the needs of the residents including providing leisure time activities, facilitating participation in community activities, and encouraging and assisting residents in maintaining family and social contacts. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.38](#)).

Rights: Residents have the right to make decisions relating to care, activities, daily routines, and other aspects of life that enhance the resident’s self-reliance and support the resident’s autonomy and decision making, and have the least restrictive conditions necessary to achieve the purposes of the resident’s admission. The CBRF may not impose a curfew, rule, or other restriction on a resident’s freedom of choice. (Statewide Transition Plan; Summarized from Wis. Admin. Code § DHS 83.32).

Met Unmet Not Applicable

The Seasons’ resident rights documents provide that the resident has the right to self-determination, can visit and associate with whomever they wish, and to choose activities, schedules, and health care consistent with his/her interest, assessments, and plans of care. Residents choose their schedules, what they want to wear, and any activities of interest.

Individuals have the freedom and support to control their own schedules and activities. [42 CFR § 441.301(c)(4)(vi)(C)]

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning: The plan must be based on an assessment that addresses the person's "capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known" and "social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs." (Statewide Transition Plan, pg. 72; Summarized from Wis. Admin. Code § DHS 83.35) Rights: Licensees must protect the civil rights of residents. Residents have the right to make decision relating to care, activities, daily routines, and other aspects of life that enhance the resident's self-reliance and support the resident's autonomy and decision-making. (Summarized from Wis. Admin. Code § DHS 83.32)

Met Unmet Not Applicable

The Seasons' resident rights documents provide that the resident has the right to self-determination, can visit and associate with whomever they wish, and to choose activities, schedules, and health care consistent with his/her interest, assessments, and plans of care. Residents choose their schedules, what they want to wear, and any activities of interest.

The setting ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint, [42 CFR § 441.301(c)(4)(iii)].

Compliance within Wisconsin State Standards and Regulations

Rights: Residents have the right to be "treated with courtesy, respect and dignity by all employees of the facility and other providers of health care and pharmacists with whom the resident comes in contact." ([Statewide Transition Plan](#), pg. 72; Summarized from [Wis. Stat. § 50.09](#)).

Residents must be provided with "physical and emotional privacy in treatment, living arrangements, and in caring for personal needs" including, privacy for visits by spouse or domestic partner, or to share a room with a spouse or domestic partner if both are residents for the same facility; privacy concerning health care; confidentiality of health and personal records; and the right to approve or refuse their release to any individual outside the facility. (Statewide Transition Plan, pg. 72; Summarized from Wis. Stat. § 50.09).

"Any form of coercion to discourage or prevent a resident or the resident's legal representative from exercising any of the rights under this subchapter is prohibited. Any form of retaliation against a resident or the resident's legal representative for exercising any of the rights in this subchapter, or against an employee or any other person who assists a resident or the resident's legal representative in the exercise of any of the resident rights in this subchapter, is prohibited." (Statewide Transition Plan, pg. 72; Wis. [Admin. Code § DHS 83.32](#)).

In addition, each resident shall have all of the following rights: freedom from mistreatment; freedom from seclusion; freedom from chemical restraint; and freedom from physical restraints, except upon prior review and approval by DHS upon written authorization from the resident's primary physician or advanced practice nurse prescriber. DHS may place conditions on the use of a restraint to protect the health, safety, welfare, and rights of the resident. (Statewide Transition Plan; Summarized from Wis. Admin. Code § DHS 83.32).

Met Unmet Not Applicable

Resident Rights, #3 – "The resident has the right to be free from any form of coercion" and #11 – Freedom from chemical restraints, and #12 – freedom from physical restraints. Residents have a key to their own unit and may lock their door whenever they wish. Staff may enter using an emergency key only if the resident does not respond to knocking. All units have a private bathroom.

Individuals are able to have visitors of their choosing at any time. [42 CFR § 441.301(c)(4)(vi)(D)]

Compliance within Wisconsin State Standards and Regulations

Rights: Residents have the right to private and unrestricted communications with their family, physician or other medical provider, attorney, and any other person, unless documented as medically contraindicated. The right to private and unrestricted communications includes the right to reasonable access to a telephone for private communications; and the opportunity for private visits. (WI Statewide Transition Plan; Summarized from Wis. Stat. § 50.09).

Met Unmet Not Applicable

Visiting hours at The Seasons are unrestricted and family and friends of all ages are welcome. Residents may invite visitors to join in on activities.

Individuals have access to food at any time.

Compliance within Wisconsin State Standards and Regulations

The CBRF must provide each resident with palatable food that meets the recommended dietary allowance based on current guidelines, including at least three meals a day and a snack in the evening, or more often based on the resident's dietary needs. If a resident is away during meal time, the CBRF shall offer food to the resident on the resident's return. The CBRF shall make reasonable adjustments to the menu for individual resident likes, habits, customs, condition, and appetites. (Summarized from Wis. Admin. Code § DHS 83.41).

Met Unmet Not Applicable

Varying alternate food items are available for all three meals. In addition, snacks are offered three times a day between meals. The Seasons provides three meals each day and staff visit with a snack care three times each day between meals. Snacks are also available on a counter in the kitchen 24/7 and includes fruit, beverages, chips, etc. Residents may keep a refrigerator in their room if they wish and/or they can keep food in the kitchen refrigerator.

The living unit is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services:

- The individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the applicable landlord/tenant laws.
- The State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law. [42 CFR § 441.301(c)(4)(vi)(A)]

Compliance within Wisconsin State Standards and Regulations

"Each resident shall have a written agreement that is signed by and provided to each party. The agreement includes a description of the space to be provided to the resident, the agreed upon rate, a statement of the resident's rights and the terms of termination, including timeframes. The agreement is updated annually." ([WI Statewide Transition Plan](#), pg. 77; [Wis. Admin. Code § DHS 83.29](#)).

The agreement must include terms for resident notification to the CBRF of voluntary discharge, and reasons and notice requirements for involuntary discharge or transfer, including transfers within the CBRF. (Summarized from [Wis. Admin. Code § DHS 83.31](#)).

Met Unmet Not Applicable

The Seasons admission agreement states that prior to any transfer or discharge of a resident, it will give a 30-day notice unless the safety or health of individuals in the community would be endangered, if immediate transfer were needed because of urgent medical needs, or if the resident has not lived in the facility for 30 days. The resident is required, as well, to give a 30-day notice if they wish to terminate the agreement.

Overcoming Institutional Presumption

The setting demonstrated a meaningful physical distinction between the HCBS setting and the institutional setting, including separate entrances and signage, physical divisions, and differences in décor.

Met Unmet Not Applicable

The Seasons has a separate entrance from the SNF but connected through the main entrance. The large outside signage says “The Seasons Assisted Living – Plum City Care Center.” The SNF hallways are clearly institutional with phones on the wall, florescent lighting, and handrails. The CBRF hallways look more like apartments and common areas a more homelike. Seasons residents may use their own bed and other furnishings.

Each individual has privacy in their sleeping or living unit.

Compliance within Wisconsin State Standards and Regulations

Residents must be provided with “physical and emotional privacy in treatment, living arrangements, and in caring for personal needs” including, privacy for visits by spouse or domestic partner, or to share a room with a spouse or domestic partner if both are residents for the same facility; privacy concerning health care; confidentiality of health and personal records; and the right to approve or refuse their release to any individual outside the facility. (Statewide Transition Plan; Summarized from Wis. Stat. § 50.09).

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance surveyors that the setting (DQA, [F-02138](#), HCBS Compliance Review):

- Provides lockable key entry doors on all resident rooms, and individual keys to all residents.
- Has a policy ensuring that staff uses facility keys to enter a resident’s room only under circumstances agreed upon with the resident.

Met Unmet Not Applicable

Seasons residents have private rooms with a private bath and a lock on their unit door. They may lock their unit whenever they wish.

Individual living units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.

Compliance within Wisconsin State Standards and Regulations

Locks on living unit doors allow the resident to exercise his or her right to privacy and personal choice. Staff in each residential setting should always knock and receive permission prior to entering a resident’s living space. DHS expects the residential setting to have a policy in place to ensure that staff always knock and receive permission prior to entering a resident’s room or personal living space to respect residents’ rights to privacy. Please refer to DHS’ [Frequently Asked Questions \(FAQs\) about Door Locks in Adult Long-Term Care Residential Settings](#) for additional lock-related information.

Met Unmet Not Applicable

Seasons residents are issued a key to their unit and can lock their door anytime they choose. Staff have access to a key in the event they need to enter your room when the door is locked. Staff will always knock on the door and give ample time to get a response. In the philosophy statement, it is explained that if the resident does not respond, staff will use an emergency room key to check that the individual is safe. If the resident is out of the building, staff will not enter the unit unless there is an emergency building maintenance issue.

Individuals sharing units have a choice of roommates in that setting.

Compliance within Wisconsin State Standards and Regulations

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance surveyors that residents have choice of roommates (DQA, [F-02138](#), HCBS Compliance Review):

Person-Centered Planning: Family Care Provider Network, I. Access to Providers: “For residential care facilities, evidence of adequate capacity shall include identification of the availability of residential providers offering private rooms, and a process for moving an individual to a private room when one becomes available that is consistent with the member’s preferences.” ([DHS-MCO Contract, Article VIII, I\(6\)d](#))

Met Unmet Not Applicable

All living units at The Seasons are single units. Adjoining rooms are available for couples, siblings, or others who wish to be closer. They can use one unit for a living area and the other for a sleeping area if they wish.

Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement. [42 CFR § 441.301(c)(4)(vi)(B)(1-3)]

Compliance within Wisconsin State Standards and Regulations

Met Unmet Not Applicable

Residents at The Seasons may bring their own furniture and possessions. They may bring a small refrigerator if they wish.

The setting is physically accessible to the individual. [42 CFR § 441.301(c)(4)(vi)(E)]

Compliance within Wisconsin State Standards and Regulations

Met Unmet Not Applicable

The Seasons, built in 2014, is physically accessible.

Operational Distinction

The setting demonstrated meaningful operational distinction between the institution and the community-based setting, such as minimal administrative and financial interconnectedness.

Met Unmet Not Applicable

The financial reports for The Seasons are separate from the Plum Care Center SNF. There is one administrator for the campus but separate manages for the CBRF and the SNF.

There is a distinction between staff for the HCBS setting and the institutional setting. Staff working in the HCBS setting receive initial and ongoing training on HCBS settings rule requirements and principles, and person-centered planning.

Met Unmet Not Applicable

All staff working in The Seasons receive training in CBRF requirements and resident rights. Assisted Living Attendants work in the CBRF and certification information is available in the Wisconsin Community-Based Care and Treatment Training Registry a tracking registry of those individuals who meet criteria of state-mandated trainings for community settings.

DHS Recommendation

DHS finds that *The Seasons* possesses the required home and community-based characteristics, is not isolating in nature, and overcomes the presumption of having institutional qualities.

Please note that these findings are preliminary only and must receive final approval from CMS.

In accordance with federal requirements, all compliance results will be made public by DHS. The decision will appear on the subsequent upload of facility information to DHS websites, including the [DQA Provider Search webpage](#) and the provider directories available at the [Consumer Guide to Health Care – Finding and Choosing an Assisted Living Facility webpage](#).

Ongoing Compliance

Wisconsin's Division of Quality Assurance (DQA) will ensure through ongoing compliance reviews that *The Seasons* continues to meet the requirements of the HCBS Settings Rule. The DMS Bureau of Assisted Living (BAL) has incorporated the HCBS settings rule into its current assisted living survey process and activities. ([DQA Implementation of Home and Community-Based Services Settings Rule in Residential Assisted Living Facilities](#))

Waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are certified by the Wisconsin Department of Health Services (DHS) and work within the requirements of contracts with DHS. State licensed settings are subject to unannounced licensing visits, both in response to complaints and during regular oversight visits, by the state licensing authority, or by the entity that certified the provider if not regulated by the state. As part of these periodic licensing or certification reviews, the credentialing entity will also review the setting for continued HCBS compliance. Providers will be required to address any HCBS rule deficiencies.

When HCBS participants are resident in the setting, waiver program care managers are required to have ongoing contact, including face-to-face visits, at which time any areas of concern would be identified and addressed. Each participant in a Medicaid home and community-based waiver program is further protected through the state's long-term care ombudsman program, which has regular access to the assisted living setting. [Wisconsin's Board on Aging & Long Term Care](#): The Board on Aging and Long Term Care advocates for the interests of Wisconsin's long-term care consumers, informs those consumers of their rights and educates the public about health care systems and long-term care. The Board also operates the [Long Term Care Ombudsman](#), and [Volunteer Ombudsman](#) services.

EVIDENTIARY ASSESSMENT AND SUMMARY
Home and Community-Based Services (HCBS) Settings Rule
Heightened Scrutiny Review – Community-Based Residential Facility (CBRF)

Facility Name Sheboygan Senior Community Inc.		Facility Type Community-Based Residential Facility (CBRF)	
Corporate Name (if applicable) Sheboygan Senior Community Inc. or SSC		License/Certification # 0015786	County Sheboygan
Facility Address 3505 County Road Y	City Sheboygan	State WI	Zip Code 53083
Primary Contact Name Paul Treffert, CEO	Primary Contact Direct Phone (include area code) 920-458-2137	Primary Contact Email Address ptreffert@sscnonprofit.org	
Facility Website Address https://sscnonprofit.org/sheboygan-senior-community-assisted-living-facility/			

Reason for Institutional Presumption

- Settings in a publicly or privately operated facility that provides inpatient institutional treatment. *Sheboygan Senior Community Inc*
- Settings on the grounds of, or adjacent to, a public institution. Name of institution: [Click or tap here to enter text.](#)
- Settings with the effect of isolating individuals from the broader community of individuals not receiving HCBS waiver services.

The Centers for Medicare and Medicaid Services' (CMS) HCBS settings rule assumes that certain settings are not home and community-based. If a Wisconsin assisted living facility (setting) meets one of the criteria for institutional presumption as defined above, the DHS Division of Medicaid Services (DMS) conducts a heightened scrutiny review.

DMS believes that Sheboygan Senior Community Inc. has overcome the institutional presumption and meets the criteria of a home and community-based services setting as summarized below.

To reinforce the extent to which Wisconsin's licensing and certification regulations and standards align with and reinforce the HCBS settings rule, the applicable state standard or regulation is included, where applicable, with the compliance review summary below.

Facility Summary

Sheboygan Wisconsin is a city of 48,000 in the shores of Lake Michigan, often called the "Spirit on The Lake." From breathtaking views of the big lake and large sandy beaches to world class sailing and premier charter fishing, this coastal community has a lot to offer. There is a historic downtown district with unique shopping, dining, and entertainment that'll please the whole family. Sheboygan enjoys 34 beautiful parks and 3 athletic complexes, totaling over 600 acres, offering residents and visitors a variety of outdoor recreation options. The city is also noted for its bratwurst and cheese. The adjoining city of Kohler is known for the manufacture of plumbing fixtures. The city is the seat of Lakeland College (1862) and the two-year University of Wisconsin–Sheboygan. Nearby are

several golf courses including “arguably the greatest championship course in the United States, the Straits at Whistling Straits®,” host of the 2004, 2010 and 2015 PGA Championships and the 2007 U.S. Senior Open, and it is the future site of the 2020 Ryder Cup scheduled for the Fall of 2021.

Sheboygan Senior Community is a faith based non-for-profit whose roots go back to 1945 when the First Methodist Church purchased an adjacent house and soon after, rented it to a church couple in need of low cost housing. Soon several other houses were purchased and then in the 60’s the properties became Sheboygan Methodist Home for the Aged. The facilities continued to evolve providing independent retirement living and nursing care (through an infirmary) for seniors until 1978 when the State of Wisconsin approved the request for 84 skilled nursing home beds. Eventually, in 2014, construction began on the new building on the outskirts of the city where today SSC includes and SNF consisting of three units including a short term rehab unit and Willow Lane, a CBRF providing assisted living in an adjoining but separate facility of 31 beds.

The setting is integrated in and supports full access to the greater community [42 CFR § 441.301(c)(4)(i)].

The community considers the setting a part of their community and does not associate the setting with institutional services.

Met Unmet Not Applicable

Sheboygan Senior Community has had a presence in the city dating back to 1945 with various housing options for people in need and in 1962, developed elderly housing as the Sheboygan Methodist Home for the Aged and, eventually, community based services. In 2014 a new SNF and CBRF were built on the current 40 acres location on the outskirts of the city. The community continues to be involved in the facilities and meeting rooms are open to the public, like Sheboygan Kiwanis club. Many community groups and organizations are on the activity calendar for Willow Lane.

A Facebook page from 9/2020 shows partnering with the Sheboygan County food bank: “We are thankful for our organizational partners.” The facility participates in the Day of Caring project through the United Way of Sheboygan County and volunteers from area businesses planted over 4,000 tulip and daffodil bulbs one Fall. The facility is the location for some ADRC outreach programs such as the 7 week fall prevention workshop. Other groups such as the local high school hockey team or a local pottery shop provide activities and presentations. SSC Willow Lane has a separate entrance and signage and is located in a separate area of the campus building. Residents come and go as they wish and many continue to participate in community groups and organizations as they did before they moved to Willow Lane.

Individuals, to the extent they desire, have opportunities to participate in typical community life activities outside of the setting.

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning: The plan must be based on an assessment that addresses the person’s “capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known” and “social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs.” (Summarized from [Wis. Admin. Code § DHS 83.35](#))

Program Services: Community activities. The CBRF shall provide information and assistance to facilitate participation in personal and community activities. The CBRF shall develop, update and make available to all residents, monthly schedules and notices of community activities, including costs. ([Wis. Admin. Code § DHS 83.38\(1\)\(d\)](#))

Family and social contacts: The CBRF shall encourage and assist residents in maintaining family and social contacts. (Wis. Admin. Code § DHS 83.38(1)(e))

Met Unmet Not Applicable

Sheboygan Senior Community residents come and go as they please. One resident keeps his vehicle in the parking lot and goes out to be with family and favorite community events. Another goes out at least weekly for a manicure and time with her daughter. Along with providing transportation for medical and other appointments, the facility van is used by small groups for fish fries and restaurants, shopping trips to Walmart and the grocery stores, to the lakefront and to parks. Sixteen different staff are insured to drive the van and the life enrichment department will take people for rides at least two evenings each week and during the days as well. Pre-COVID, the rides were even more frequent. Staff can also take individuals to community and family events, such as transporting a resident to and from a family member's wedding. The van is wheel chair accessible. (Trips are not as frequent right now because if they attend an event, they need to quarantine on their return and some people do not want to go through the quarantine.) Any resident leaving the building for any period of time is asked to sign out at the nurse's work station and inform the nursing staff when they are leaving and when they plan to return. Staff prepared medications and others things the resident may need while they are away from the facility. Along with day trips and outings, some residents leave for overnights, holidays, and weekend leaves, if they wish.

Activities are individualized or include more than just setting-based group activities.

Met Unmet Not Applicable

The Sheboygan Senior Community agreement states that the facility will provide an activity program to meet the interest and capabilities of the residents. Activity calendars are posted with monthly schedules and notices of community activities including costs. Some community activities, for those who wish to participate are farm animal visits, trips to Sheboygan Theater, various performances, and rides to enjoy Fall colors and Christmas lights such as Making Spirits Bright, a drive through by the Sheboygan Rotary. Residents can come and go as they wish. One resident enjoys weekly manicures with her daughter. Another states that he has family in the area and wants to see them regularly. He has his own vehicle and enjoys going out to the store and enjoying community events as he did before he moved to SSC Willow Lane.

The setting supports access to community activities through its own transportation or coordination of transportation options.

Met Unmet Not Applicable

Transportation is available, at a charge, to those residents having medical, dental or other appointments in and around the Sheboygan area and having no family members or friends available to help transport. Staff assist with scheduling as needed. If the Sheboygan Senior Community bus/van is not available, staff will help with scheduling other community transportation such through the Metro Connection paratransit and county transportation programs for seniors and persons with disabilities. For errands and social transportation, Metro Connection offers fixed route public transportation, ADA paratransit and "premium service" which is same day paratransit service at a reasonable cost. Although Willow Lane is a not a fixed route stop, they provide pre-scheduled transportation and several SSC staff use the service to and from work. Several businesses in the Sheboygan area provide taxi services. Willow Lane residents can have their own vehicle onsite if they are licensed.

Individuals, if they choose, have opportunities to seek employment and work in competitive integrated settings.

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning:

The plan must be based on an assessment that addresses the person's "capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known" and "social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs." ([WI Statewide Transition Plan](#); Summarized from [Wis. Admin. Code § DHS 83.35](#)).

From contract between DHS and specific MCOs:

V. Care Management:

C. Assessment and Member-Centered Planning Process

C.1. Comprehensive Assessment

C.1.(c) Documentation: The comprehensive assessment will include documentation by the IDT staff of:

C.1.(c)(viii) An exploration with the member of the member’s preferences and opportunities for community integration including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community.

C.3. Member-Centered Planning

C.3.(c)(iv)(g) The setting in which the member resides supports integration into 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.

VII. Services

A. General Provisions

1. Comprehensive Service Delivery System

c. Serve to maintain community connections, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, and that are cost effective.

Addendum I

It is the DHS’s “expectation under this contract that benefits will be fully integrated and will afford options that foster opportunities for interaction and integration into 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 while supporting each member’s individual outcomes and recognizing each member’s preferences.”

Met Unmet Not Applicable

For Sheboygan Senior Community residents who are supported with waiver funding, the member centered plan includes several sections on outcomes and goals during which employment and education are discussed. Residents come and go as they wish and could work if they desired.

Individuals are able to control their personal resources.

Compliance within Wisconsin State Standards and Regulations

Every resident in a community-based residential facility has the right to “manage the resident’s own financial affairs, unless the resident delegates, in writing, such responsibility to the facility and the facility accepts the responsibility or unless the resident delegates to someone else of the resident’s choosing and that person accepts the responsibility.” (Statewide Transition Plan; [Wis. Stat. § 50.09](#)).

Met Unmet Not Applicable

Sheboygan Senior Community residents have a key to their unit and may keep their funds in their room if they wish. The house rules state that it is not recommended to keep valuable or large sums of money in their room and suggest consideration of opening a personal funds account at the business office. These funds are accessible at any time. The nurse manager on duty has keys to the business office and safe. Since residents can come and go as they wish, they may also continue to bank with the financial institutions of their choice.

The setting is selected by the individual from among setting options including non-disability specific settings. [42 CFR § 441.301(c)(4)(ii)].

Compliance within Wisconsin State Standards and Regulations

Wisconsin has protections in place for Medicaid waiver participants which ensure they understand their choices. DHS waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are responsible for discussing choice of service

settings with the waiver participant and family/guardian to locate the most suitable provider setting, including a discussion of living in a non-disability specific setting. In practice, the waiver agencies are complying with this requirement, and documenting and monitoring the choice of settings in the member-centered plan or IRIS support and service plan, as applicable.

In Wisconsin, the choice of setting requirement is not the initial responsibility of the provider setting. Rather the choice of setting takes place through the person-centered planning process at the waiver agency level. Waiver agencies are certified by DHS and work within the requirements of contracts with DHS. Through ongoing monitoring, Wisconsin will ensure that individuals maintain the right to choose where they reside.

Additionally, Wisconsin has protections in place through *Pre-Admission Consultation (PAC)*: <https://www.dhs.wisconsin.gov/adrc/pros/pac.htm>. "Pre-admission consultation is a service provided by Aging and Disability Resource Centers (ADRCs) to individuals who are in the process of considering or making a decision about the need to move out of his or her home in order to receive the help they need to remain independent and safe. Sometimes people are unaware that there are services and supports that can be provided right in their own home, often making a move unnecessary. Those who want to move into a nursing home or assisted living facility (such as a community based residential facility or residential care apartment complex), can find it difficult to know which facility would be the best for them or a loved one."

Met Unmet Not Applicable

The Sheboygan Senior Community *Admission Agreement* requires gathering pre-admission information including a social history along with a medical history. Then an individual service plan ISP is developed with the resident within thirty days. Individuals make application to live at SSC Willow Lane and many residents choose to live there before they are supported with waiver funds. When they become eligible for MA funding, the MCO provides regularly scheduled member centered planning with the member. One section of the MCP discusses where the member wants to live. One plan states "Most important to member related to living environment: to continue living where she is at." And another "What's most important to me in the next six months: To maintain health and stability and remain at SSC where all her care needs are met."

The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and resources available for room and board. [42 CFR § 441.301(c)(4)(ii)].

Compliance within Wisconsin State Standards and Regulations

"COMPREHENSIVE INDIVIDUAL SERVICE PLAN Individual service plan review. Annually or when there is a change in a resident's needs, abilities or physical or mental condition, the individual service plan shall be reviewed and revised based on the assessment under sub. (1). All reviews of the individual service plan shall include input from the resident or legal representative, case manager, resident care staff, and other service providers as appropriate." ([Wis. Admin. Code § DHS 83.35 \(1\)\(d\)](#))

Met Unmet Not Applicable

Sheboygan Senior Community residents who are supported with waiver funding participate in a regularly scheduled and as needed member centered planning process during which short and long term goals are discussed, including where they want to live. One MCP states "Most important to member related to living environment: to continue living where she is at..." and for another, "What is most important to me in the next six month – to maintain health and stability and remain at SSC" where all her care needs are met. Most residents make the choice to live at Willow Lane before they become eligible for waiver funding.

The setting facilitates choice regarding services and supports, and who provides them. Individuals have a choice in selecting their service providers, and are not reliant on services from the institution to the exclusion of other community-based options. Individuals can choose to receive services in the community to the same degree as individuals not receiving Medicaid HCBS. [42 CFR § 441.301(c)(4)(v)]

Compliance within Wisconsin State Standards and Regulations

Before or at the time of admission, the CBRF shall provide written information regarding services available and the charges for those services to each resident or the resident's legal representative. This information shall include any charges for services not covered by the daily or monthly rate (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.29](#)).

Person-Centered Planning

- “Options of services, providers, and settings, including non-disability specific settings, are offered to participants in all Wisconsin HCBS programs.” (WI Statewide Transition Plan; Summarized from Wis. HCBS waivers, waiver-specific contracts, and policy documents.)
- Residents have the right to “use the licensed, certified or registered provider of health care and pharmacist of the resident’s choice.” ([Wis. Stat. § 50.09](#))

Met Unmet Not Applicable

The Sheboygan Senior Community *Admission Agreement* states that residents are required to retain an attending physician. Residents wishing to change physicians are to contact the Director of Nursing or the Nurse Manager. Further, “The CBRF will monitor the health of residents and make arrangements for physical health, oral health or mental health services unless otherwise arranged for by the resident. Each resident shall have an annual health examination completed by a physician or advanced practice nurse.” Residents have choice of providers for all medical and pharmacy needs, therapies, and other services.

The setting optimizes, but does 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. [42 CFR § 441.301(c)(4)(iv)]

Compliance within Wisconsin State Standards and Regulations

Rights: Licensees must protect the civil rights of residents. Residents have the right to make decision relating to care, activities, daily routines, and other aspects of life that enhance the resident's self-reliance and support the resident's autonomy and decision-making. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.32](#)).

Person-Centered Planning: The plan must be based on an assessment that addresses the person's capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known, and social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts, and vocational needs. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.35](#)).

“The CBRF shall teach residents the necessary skills to achieve and maintain the resident's highest level of functioning.” The CBRF shall provide or arrange services adequate to meet the needs of the residents including providing leisure time activities, facilitating participation in community activities, and encouraging and assisting residents in maintaining family and social contacts. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.38](#)).

Rights: Residents have the right to make decisions relating to care, activities, daily routines, and other aspects of life that enhance the resident's self-reliance and support the resident's autonomy and decision making, and have the least restrictive conditions necessary to achieve the purposes of the resident's admission. The CBRF may not impose a curfew, rule, or other restriction on a resident's freedom of choice. (Statewide Transition Plan; Summarized from Wis. Admin. Code § DHS 83.32).

Met Unmet Not Applicable

Sheboygan Senior Community residents “can expect several distinctions within the CBRF including door locks, kitchenette, spacious private bathroom, a closet, a multitude of electrical outlets and data ports, access to Wi-Fi, exclusive heating and cooling systems, and a blank slate for adding their own décor.” The resident rights document provides that the resident has the right to make decisions relating to care, activities, daily routine and other aspects of life which enhances the resident's self-reliance and supports the resident's autonomy and decision making. Residents can come and go as they desire.

Individuals have the freedom and support to control their own schedules and activities. [42 CFR § 441.301(c)(4)(vi)(C)]

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning: The plan must be based on an assessment that addresses the person’s “capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known” and “social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs.” (Statewide Transition Plan, pg. 72; Summarized from Wis. Admin. Code § DHS 83.35) Rights: Licensees must protect the civil rights of residents. Residents have the right to make decision relating to care, activities, daily routines, and other aspects of life that enhance the resident’s self-reliance and support the resident’s autonomy and decision-making. (Summarized from Wis. Admin. Code § DHS 83.32)

Met Unmet Not Applicable

The Sheboygan Senior Community *Resident Rights* document provides that the resident has the right to make decisions relating to care, activities, daily routine and other aspects of life which enhances the resident’s self- reliance and supports the resident’s autonomy and decision making. Residents can come and go as they choose, can go out with family and friends, or can go out on their own. Residents may have their own vehicle if they still drive. Several public transportation options are also available. Residents are informed about onsite activities but attend and participate as they wish.

The setting ensures an individual’s rights of privacy, dignity and respect, and freedom from coercion and restraint, [42 CFR § 441.301(c)(4)(iii)].

Compliance within Wisconsin State Standards and Regulations

Rights: Residents have the right to be “treated with courtesy, respect and dignity by all employees of the facility and other providers of health care and pharmacists with whom the resident comes in contact.” ([Statewide Transition Plan](#), pg. 72; Summarized from [Wis. Stat. § 50.09](#)).

Residents must be provided with “physical and emotional privacy in treatment, living arrangements, and in caring for personal needs” including, privacy for visits by spouse or domestic partner, or to share a room with a spouse or domestic partner if both are residents for the same facility; privacy concerning health care; confidentiality of health and personal records; and the right to approve or refuse their release to any individual outside the facility. (Statewide Transition Plan, pg. 72; Summarized from Wis. Stat. § 50.09).

“Any form of coercion to discourage or prevent a resident or the resident’s legal representative from exercising any of the rights under this subchapter is prohibited. Any form of retaliation against a resident or the resident’s legal representative for exercising any of the rights in this subchapter, or against an employee or any other person who assists a resident or the resident’s legal representative in the exercise of any of the resident rights in this subchapter, is prohibited.” (Statewide Transition Plan, pg. 72; Wis. [Admin. Code § DHS 83.32](#)).

In addition, each resident shall have all of the following rights: freedom from mistreatment; freedom from seclusion; freedom from chemical restraint; and freedom from physical restraints, except upon prior review and approval by DHS upon written authorization from the resident’s primary physician or advanced practice nurse prescriber. DHS may place conditions on the use of a restraint to protect the health, safety, welfare, and rights of the resident. (Statewide Transition Plan; Summarized from Wis. Admin. Code § DHS 83.32).

Met Unmet Not Applicable

The Sheboygan Senior Community *Resident Rights* document provides for freedom from mistreatment, seclusion, chemical restraints and physical restraints. Room checks are done several times each day but residents may sign a waiver if they do not want room checks done. All resident units can be locked and residents have their own key. Each unit has a separate bathroom.

Individuals are able to have visitors of their choosing at any time. [42 CFR § 441.301(c)(4)(vi)(D)]

Compliance within Wisconsin State Standards and Regulations

Rights: Residents have the right to private and unrestricted communications with their family, physician or other medical provider, attorney, and any other person, unless documented as medically contraindicated. The right to private and unrestricted communications includes the right to reasonable access to a telephone for private communications; and the opportunity for private visits. (WI Statewide Transition Plan; Summarized from Wis. Stat. § 50.09).

Met Unmet Not Applicable

Sheboygan Senior Community encourages and assists residents in maintaining family and social contacts. Residents and their guests are encouraged to enjoy the facility café and other common areas such as the community living room, courtyards, porches, and outside paths. Family and friends are invited to eat with them and attend activity programs, The CBRF permits overnight guests to stay in the resident's room with notice to the unit manager. Recommended visiting hours are from 9:00 am to 9:00 pm, but these hours are guidelines only.

Individuals have access to food at any time.

Compliance within Wisconsin State Standards and Regulations

The CBRF must provide each resident with palatable food that meets the recommended dietary allowance based on current guidelines, including at least three meals a day and a snack in the evening, or more often based on the resident's dietary needs. If a resident is away during meal time, the CBRF shall offer food to the resident on the resident's return. The CBRF shall make reasonable adjustments to the menu for individual resident likes, habits, customs, condition, and appetites. (Summarized from Wis. Admin. Code § DHS 83.41).

Met Unmet Not Applicable

The Sheboygan Senior Community monthly fee includes 3 meals each day and snacks and beverages. Resident units have a kitchenette area for a refrigerator and a microwave. Onsite is a facility store and the Café Redwood offering a variety of drinks, snacks, soups, sandwiches, wraps, salads, and desserts. Residents may come and go as they please and often eat out with family and friends. Guests may order meals and dine with residents.

The living unit is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services:

- The individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the applicable landlord/tenant laws.
- The State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law. [42 CFR § 441.301(c)(4)(vi)(A)]

Compliance within Wisconsin State Standards and Regulations

"Each resident shall have a written agreement that is signed by and provided to each party. The agreement includes a description of the space to be provided to the resident, the agreed upon rate, a statement of the resident's rights and the terms of termination, including timeframes. The agreement is updated annually." ([WI Statewide Transition Plan](#), pg. 77; [Wis. Admin. Code § DHS 83.29](#)).

The agreement must include terms for resident notification to the CBRF of voluntary discharge, and reasons and notice requirements for involuntary discharge or transfer, including transfers within the CBRF. (Summarized from [Wis. Admin. Code § DHS 83.31](#)).

Met Unmet Not Applicable

The Sheboygan Senior Community CBRF agreement states the monthly rate will only increase after careful analysis of all alternatives and thirty (30) days written notice will always be given prior to any change. The CBRF Resident shall give Sheboygan Senior Community, Inc., a five-day minimum notice for reasons other than emergency discharge if they wish to discharge from the CBRF. Under the termination section, Sheboygan Senior Community shall give the Resident and/or legal representative a 30 day notice of discharge.

Overcoming Institutional Presumption

The setting demonstrated a meaningful physical distinction between the HCBS setting and the institutional setting, including separate entrances and signage, physical divisions, and differences in décor.

Met Unmet Not Applicable

Sheboygan Senior Community has an entrance and signage separate from the entrance to the SNFs. The floor plan shows that the CBRF is a separate facility within the building complex. Resident rooms and some common areas are carpeted and residents can furnish and decorate their unit however they wish. SSC Willow Lane units are two rooms connected by a hallway to the private bathroom, with a kitchenette and cabinet storage.

Each individual has privacy in their sleeping or living unit.

Compliance within Wisconsin State Standards and Regulations

Residents must be provided with “physical and emotional privacy in treatment, living arrangements, and in caring for personal needs” including, privacy for visits by spouse or domestic partner, or to share a room with a spouse or domestic partner if both are residents for the same facility; privacy concerning health care; confidentiality of health and personal records; and the right to approve or refuse their release to any individual outside the facility. (Statewide Transition Plan; Summarized from Wis. Stat. § 50.09).

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance surveyors that the setting (DQA, [F-02138](#), HCBS Compliance Review):

- Provides lockable key entry doors on all resident rooms, and individual keys to all residents.
- Has a policy ensuring that staff uses facility keys to enter a resident’s room only under circumstances agreed upon with the resident.

Met Unmet Not Applicable

Sheboygan Senior Community has 31 beds in 25 units. Each unit has separate living and sleeping spaces. The units are unfurnished so residents bring their own furniture and other belongings with them. Units are two rooms connected by a hallway to the private bathroom, with a kitchenette and cabinet storage and the resident can choose which room will be the sleeping area and which will be the living room. Each resident has a key to their locked unit.

Individual living units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.

Compliance within Wisconsin State Standards and Regulations

Locks on living unit doors allow the resident to exercise his or her right to privacy and personal choice. Staff in each residential setting should always knock and receive permission prior to entering a resident’s living space. DHS expects the residential setting to have a policy in place to ensure that staff always knock and receive permission prior to entering a resident’s room or personal living space to respect residents’ rights to privacy. Please refer to DHS’ [Frequently Asked Questions \(FAQs\) about Door Locks in Adult Long-Term Care Residential Settings](#) for additional lock-related information.

Met Unmet Not Applicable

According to the brochure, Sheboygan Senior Community residents can expect several distinctions within the CBRF including door locks, kitchenette, spacious private bathroom, a closet, a multitude of electrical outlets and data ports, access to Wi-Fi, exclusive heating and cooling systems, and a blank slate for adding their own décor. The HCBS living unit key policy details that residents may choose to lock their room and two other family or friends may have keys. Staff members have access to a master key for emergencies. The admission agreement defines the notice required for entering a resident's unit.

Individuals sharing units have a choice of roommates in that setting.

Compliance within Wisconsin State Standards and Regulations

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance surveyors that residents have choice of roommates (DQA, [F-02138](#), HCBS Compliance Review):

Person-Centered Planning: Family Care Provider Network, I. Access to Providers: "For residential care facilities, evidence of adequate capacity shall include identification of the availability of residential providers offering private rooms, and a process for moving an individual to a private room when one becomes available that is consistent with the member's preferences." ([DHS-MCO Contract, Article VIII, I\(6\)d](#))

Met Unmet Not Applicable

Sheboygan Senior Community has 25 unit and a license for 31 beds. Residents choose their roommates, usually couples, siblings, or good friends.

Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement. [42 CFR § 441.301(c)(4)(vi)(B)(1-3)]

Compliance within Wisconsin State Standards and Regulations

Met Unmet Not Applicable

Sheboygan Senior Community residents use their own furnishings and can choose to set up either the front or back room of their apartment as a bedroom. Both rooms are connected by a hallway to their private bathroom, with a kitchenette and cabinet storage.

The setting is physically accessible to the individual. [42 CFR § 441.301(c)(4)(vi)(E)]

Compliance within Wisconsin State Standards and Regulations

Met Unmet Not Applicable

The Sheboygan Senior Community campus was built in 2014 and is physically accessible.

Operational Distinction

The setting demonstrated meaningful operational distinction between the institution and the community-based setting, such as minimal administrative and financial interconnectedness.

Met Unmet Not Applicable

Income and expenses are separate for the Sheboygan Senior Community from the other settings on campus. There is a separate organizational chart for the CBRF under the CEO/President as part of the SSC campus organizational chart.

There is a distinction between staff for the HCBS setting and the institutional setting. Staff working in the HCBS setting receive initial and ongoing training on HCBS settings rule requirements and principles, and person-centered planning.

Met Unmet Not Applicable

Sheboygan Senior Community staff who work in SSC Willow Lane take the required CBRF classes and are certified. The target goal for the campus is for all staff to be CNAs and CBRF trained. Assignment is on a case by case basis and preference. Some CNA staff like working in both facilities, some prefer one facility over the other. There are “core groups” in each facility but with the small number of beds, they sometimes need to schedule some staff in both. SNF staff who work in the CBRF have been cross-trained.

DHS Recommendation

DHS finds that [Sheboygan Senior Community Inc.](#) possesses the required home and community-based characteristics, is not isolating in nature, and overcomes the presumption of having institutional qualities.

Please note that these findings are preliminary only and must receive final approval from CMS.

In accordance with federal requirements, all compliance results will be made public by DHS. The decision will appear on the subsequent upload of facility information to DHS websites, including the [DQA Provider Search webpage](#) and the provider directories available at the [Consumer Guide to Health Care – Finding and Choosing an Assisted Living Facility webpage](#).

Ongoing Compliance

Wisconsin’s Division of Quality Assurance (DQA) will ensure through ongoing compliance reviews that [Sheboygan Senior Community Inc.](#) continues to meet the requirements of the HCBS Settings Rule. The DMS Bureau of Assisted Living (BAL) has incorporated the HCBS settings rule into its current assisted living survey process and activities. ([DQA Implementation of Home and Community-Based Services Settings Rule in Residential Assisted Living Facilities](#))

Waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are certified by the Wisconsin Department of Health Services (DHS) and work within the requirements of contracts with DHS. State licensed settings are subject to unannounced licensing visits, both in response to complaints and during regular oversight visits, by the state licensing authority, or by the entity that certified the provider if not regulated by the state. As part of these periodic licensing or certification reviews, the credentialing entity will also review the setting for continued HCBS compliance. Providers will be required to address any HCBS rule deficiencies.

When HCBS participants are resident in the setting, waiver program care managers are required to have ongoing contact, including face-to-face visits, at which time any areas of concern would be identified and addressed. Each participant in a Medicaid home and community-based waiver program is further protected through the state’s long-term care ombudsman program, which has regular access to the assisted living setting. [Wisconsin’s Board on Aging & Long Term Care](#): The Board on Aging and Long Term Care advocates for the interests of Wisconsin’s long-term care consumers, informs those consumers of their rights and educates the public about health care systems and long-term care. The Board also operates the [Long Term Care Ombudsman](#), and [Volunteer Ombudsman](#) services.

EVIDENTIARY ASSESSMENT AND SUMMARY
Home and Community-Based Services (HCBS) Settings Rule
Heightened Scrutiny Review – Community-Based Residential Facility (CBRF)

Facility Name St. Camillus CBRF		Facility Type Community-Based Residential Facility (CBRF)	
Corporate Name (if applicable) San Camillo Inc		License/Certification # 0011293	County Milwaukee
Facility Address 10101 West Wisconsin Avenue	City Wauwatosa	State WI	Zip Code 53226
Primary Contact Name Shannon Angell	Primary Contact Direct Phone (include area code) 414-259-4570	Primary Contact Email Address Sangell@stcam.com	
Facility Website Address www.stcam.com			

Reason for Institutional Presumption

- Settings in a publicly or privately operated facility that provides inpatient institutional treatment. [St. Camillus Health Center](#)
- Settings on the grounds of, or adjacent to, a public institution. Name of institution:
- Settings with the effect of isolating individuals from the broader community of individuals not receiving HCBS waiver services.

The Centers for Medicare and Medicaid Services' (CMS) HCBS settings rule assumes that certain settings are not home and community-based. If a Wisconsin assisted living facility (setting) meets one of the criteria for institutional presumption as defined above, the DHS Division of Medicaid Services (DMS) conducts a heightened scrutiny review.

DMS believes that St. Camillus CBRF has overcome the institutional presumption and meets the criteria of a home and community-based services setting as summarized below.

To reinforce the extent to which Wisconsin's licensing and certification regulations and standards align with and reinforce the HCBS settings rule, the applicable state standard or regulation is included, where applicable, with the compliance review summary below.

Facility Summary

St. Camillus, located in Wauwatosa, Wisconsin, is licensed by the State of Wisconsin as a community-based residential facility (CBRF). St. Camillus CBRF is located on a 22-acre continuing care campus offering residential apartments, home hospice, skilled nursing and rehabilitation services, and complimentary therapies. The assisted living programs are designed to provide a full array of services for older adults who are no longer able to remain at home, but do not require the level of care offered by a skilled nursing facility. Program services support the resident in allowing and maintaining independence. Wauwatosa is a community of over 45,000 residents located about 15 minutes from downtown Milwaukee. Residents at St. Camillus have lived rich lives in the Wauwatosa and

Milwaukee communities and can access services, see family and friends and enjoy activities that the region has to offer. There are 86 individual living units at St. Camillus including studios and one-bedroom apartments.

The setting is integrated in and supports full access to the greater community [42 CFR § 441.301(c)(4)(i)].

The community considers the setting a part of their community and does not associate the setting with institutional services.

Met Unmet Not Applicable

- St. Camillus enjoys a rich heritage and tradition in Milwaukee: Community members and resident’s opinions were sought out over the years for planning and involvement: History from www.stcam.com documents:
“The campus expanded further into senior care when the West Residence, formerly known as San Camillo (independent living), was built in 1989 and further expanded independent living in 1992. St. Camillus Health and Rehabilitation Center, a 210 bed skilled nursing building, built in 1990, and this new building changed the original hospital from being a nursing home into serving as an assisted living community. In 2006, the Corporation and the Order decided that a strategic shift to reduce the nursing home bed count so the Health Center was remodeled to assisted living offering 76 assisted living units and a reduced amount of licensed nursing home beds to 67 beds. Today, St. Camillus is undergoing an expansion project adding an additional 168 independent living apartments scheduled for completion in spring of 2022.”
- *Cover letter*: “Evidence of regular participation in community life activities, outside the facility, occurs through regular outings, planned and unplanned and the residents can come and go as they choose.”
- *Program Statement* highlights program goals that maintain independence in decision making for each resident. Encourages an awareness and contact with the outside community, family and friends and urges residents to explore and develop leisure time interests both within and outside the setting.
- Flyers describing group outings to Blue Mound Gardens, Brewers Games, Milwaukee Art Museum, restaurants submitted.
- A review of sample person-centered plans highlights one resident who continues to attend church in Milwaukee and continues to be part of the church choir.

Individuals, to the extent they desire, have opportunities to participate in typical community life activities outside of the setting.

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning: The plan must be based on an assessment that addresses the person’s “capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known” and “social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs.” (Summarized from [Wis. Admin. Code § DHS 83.35](#))

Program Services: Community activities. The CBRF shall provide information and assistance to facilitate participation in personal and community activities. The CBRF shall develop, update and make available to all residents, monthly schedules and notices of community activities, including costs. ([Wis. Admin. Code § DHS 83.38\(1\)\(d\)](#))

Family and social contacts: The CBRF shall encourage and assist residents in maintaining family and social contacts. (Wis. Admin. Code § DHS 83.38(1)(e))

Met Unmet Not Applicable

Program Statement, Program Goals describes the person-centered planning process and goals:

- “Maintain independence in decision making which is protected by resident rights.”

- “Be assisted to reach and maintain their optimal level of functioning: physically, mentally, socially and emotionally”.
- Maintain an awareness and contact with the outside community, family and friends.
- “Enjoy exploring and developing leisure time interests both within and outside St. Camillus.”

A review of three person-centered plans cited family and social involvement including weekly outings to restaurants, holiday overnight stays, etc.

Activities are individualized or include more than just setting-based group activities.

Met Unmet Not Applicable

- St. Camillus staff assist residents in planning social and recreational activities both at St. Camillus and away from the setting. Activities are a standard agenda item at each monthly resident council meeting. Some are group activities like a Christmas lights tour through the community, attending fairs, and picnics. Residents and families are encouraged to engage in community activities together.
- *Program Statement* confirms that the goal of the recreational program is diversity of choice and support of individual interests. Scheduled transportation to community outings are offered on a regular basis.
- *Cover letter* confirms, “There are no limitations on residents to choose activities in the community. St. Camillus assists each resident in obtaining tickets for events, etc.

The setting supports access to community activities through its own transportation or coordination of transportation options.

Met Unmet Not Applicable

- As stated in the *Program Handbook*, “Scheduled transportation to community outings are offered on a regular basis.”
- St. Camillus has access to the campus mini-bus/van vehicle for group activities. Taxi and ride-share services are also available in the Wauwatosa area and the residential staff arranges for individual residents. The greater Milwaukee community has public transportation options and residents that choose public transportation will receive training and assistance.

Individuals, if they choose, have opportunities to seek employment and work in competitive integrated settings.

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning:

The plan must be based on an assessment that addresses the person’s “capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known” and “social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs.” ([WI Statewide Transition Plan](#); Summarized from [Wis. Admin. Code § DHS 83.35](#)).

From contract between DHS and specific MCOs:

V. Care Management:

C. Assessment and Member-Centered Planning Process

C.1. Comprehensive Assessment

C.1.(c) Documentation: The comprehensive assessment will include documentation by the IDT staff of:

C.1.(c)(viii) An exploration with the member of the member’s preferences and opportunities for community integration including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community.

C.3. Member-Centered Planning

C.3.(c)(iv)(g) The setting in which the member resides supports integration into 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.

VII. Services

A. General Provisions

1. Comprehensive Service Delivery System

- c. Serve to maintain community connections, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, and that are cost effective.

Addendum I

It is the DHS’s “expectation under this contract that benefits will be fully integrated and will afford options that foster opportunities for interaction and integration into 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 while supporting each member’s individual outcomes and recognizing each member’s preferences.”

Met Unmet Not Applicable

St. Camillus CBRF residents who are supported with waiver funding are directly involved in the member-centered plan process which includes discussion of their preferred outcomes including employment and volunteering if they wish. Residents chose their schedules and can come and go as they wish, including employment if they desire.

Individuals are able to control their personal resources.

Compliance within Wisconsin State Standards and Regulations

Every resident in a community-based residential facility has the right to “manage the resident’s own financial affairs, unless the resident delegates, in writing, such responsibility to the facility and the facility accepts the responsibility or unless the resident delegates to someone else of the resident’s choosing and that person accepts the responsibility.” (Statewide Transition Plan; [Wis. Stat. § 50.09](#)).

Met Unmet Not Applicable

- The *Resident Rights Policy and Admission Agreement* support that residents manage their own financial affairs. The *St. Camillus Policy Document, section R, Financial Affairs* confirms each resident “to manage their own financial affairs, as provided in Wisconsin Statutes, 50.09.
- St. Camillus maintains a branch of a local bank on campus that residents can access, if they so choose.

The setting is selected by the individual from among setting options including non-disability specific settings. [42 CFR § 441.301(c)(4)(ii)].

Compliance within Wisconsin State Standards and Regulations

Wisconsin has protections in place for Medicaid waiver participants which ensure they understand their choices. DHS waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are responsible for discussing choice of service settings with the waiver participant and family/guardian to locate the most suitable provider setting, including a discussion of living in a non-disability specific setting. In practice, the waiver agencies are complying with this requirement, and documenting and monitoring the choice of settings in the member-centered plan or IRIS support and service plan, as applicable.

In Wisconsin, the choice of setting requirement is not the initial responsibility of the provider setting. Rather the choice of setting takes place through the person-centered planning process at the waiver agency level. Waiver agencies are certified by DHS and work within the requirements of contracts with DHS. Through ongoing monitoring, Wisconsin will ensure that individuals maintain the right to choose where they reside.

Additionally, Wisconsin has protections in place through *Pre-Admission Consultation (PAC)*: <https://www.dhs.wisconsin.gov/adrc/pros/pac.htm>.

“Pre-admission consultation is a service provided by Aging and Disability Resource Centers (ADRCs) to individuals who are in the process of considering or making a decision about the need to move out of his or her home in order to receive the help they need to remain independent and safe. Sometimes people are unaware that there are services and supports that can be provided right in their own home, often making a move unnecessary. Those who want to move into a nursing home or assisted living facility (such as a community based residential facility or residential care apartment complex), can find it difficult to know which facility would be the best for them or a loved one.”

Met Unmet Not Applicable

Three person-centered plans reviewed for additional long- term care services and treatment options. As outlined in the *Policy and Procedure Handbook, Section J* each resident will “participate in the planning of care and treatment, be fully informed of care, treatment, long term options and have the right to refuse any form of care unless ordered by the court.” Each of the person-centered plans submitted indicate that the resident chooses all of their options and consents to their individual plans.

The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and resources available for room and board. [42 CFR § 441.301(c)(4)(ii)].

Compliance within Wisconsin State Standards and Regulations

“COMPREHENSIVE INDIVIDUAL SERVICE PLAN Individual service plan review. Annually or when there is a change in a resident's needs, abilities or physical or mental condition, the individual service plan shall be reviewed and revised based on the assessment under sub. (1). All reviews of the individual service plan shall include input from the resident or legal representative, case manager, resident care staff, and other service providers as appropriate.” ([Wis. Admin. Code § DHS 83.35 \(1\)\(d\)](#))

Met Unmet Not Applicable

- The *Policy Handbook, Section K, Self-Determination* confirms that each resident “Makes decisions relating to care, activities, daily routines and other aspects of life which enhance the resident’s self-reliance and support the resident’s autonomy and decision making.”
- Person-centered plans reviewed for *Long-Term Care Preferences*, activity preferences, daily life routines, etc. After the resident’s admission, a person-centered plan is developed, personalized and reviewed within thirty days after admission. Each plan seeks an integrated program and individually designed activities and services for each resident. *Resident A* plan detailed the resident’s inability to deal with family members and the plan devised that each week; the resident would call one or two of his children.

The setting facilitates choice regarding services and supports, and who provides them. Individuals have a choice in selecting their service providers, and are not reliant on services from the institution to the exclusion of other community-based options. Individuals can choose to receive services in the community to the same degree as individuals not receiving Medicaid HCBS. [42 CFR § 441.301(c)(4)(v)]

Compliance within Wisconsin State Standards and Regulations

Before or at the time of admission, the CBRF shall provide written information regarding services available and the charges for those services to each resident or the resident’s legal representative. This information shall include any charges for services not covered by the daily or monthly rate (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.29](#)).

Person-Centered Planning

- “Options of services, providers, and settings, including non-disability specific settings, are offered to participants in all Wisconsin HCBS programs.” (WI Statewide Transition Plan; Summarized from Wis. HCBS waivers, waiver-specific contracts, and policy documents.)
- Residents have the right to “use the licensed, certified or registered provider of health care and pharmacist of the resident’s choice.” ([Wis. Stat. § 50.09](#))

Met Unmet Not Applicable

- *Program Statement, Services Lists*: “Access to additional medical support is on campus. Audiologist, case management, home hospice, home health, geriatric certified physicians. Residents can continue to see their own healthcare providers in the community, and “exercise complete control of providers of physical and mental health care and pharmacist.”
- Under *Section J, Treatment Options*, each resident has the right to “participate in the planning of care and treatment, be fully informed of care and the use of licensed, certified or registered providers of health care and pharmacy is of each resident’s choice.

The setting optimizes, but does 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. [42 CFR § 441.301(c)(4)(iv)]

Compliance within Wisconsin State Standards and Regulations

Rights: Licensees must protect the civil rights of residents. Residents have the right to make decision relating to care, activities, daily routines, and other aspects of life that enhance the resident’s self-reliance and support the resident’s autonomy and decision-making. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.32](#)).

Person-Centered Planning: The plan must be based on an assessment that addresses the person’s capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known, and social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts, and vocational needs. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.35](#)).

“The CBRF shall teach residents the necessary skills to achieve and maintain the resident’s highest level of functioning.” The CBRF shall provide or arrange services adequate to meet the needs of the residents including providing leisure time activities, facilitating participation in community activities, and encouraging and assisting residents in maintaining family and social contacts. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.38](#)).

Rights: Residents have the right to make decisions relating to care, activities, daily routines, and other aspects of life that enhance the resident’s self-reliance and support the resident’s autonomy and decision making, and have the least restrictive conditions necessary to achieve the purposes of the resident’s admission. The CBRF may not impose a curfew, rule, or other restriction on a resident’s freedom of choice. (Statewide Transition Plan; Summarized from Wis. Admin. Code § DHS 83.32).

Met Unmet Not Applicable

The St. Camillus *Program Statement* confirms the following:

- “The supportive living programs offered at St. Camillus are designed to provide a full array of services for older adults who are no longer able to remain living a totally independent life”. “The nature of our program is to provide the support so critically needed to allow an elderly person to maintain independence.”
- Each resident will “maintain independence in decision making which is protected by their resident rights.”
- Residents are encouraged to “maintain an awareness and contact with the outside community.”
- Residents are encouraged to “enjoy exploring and developing leisure time interests both within and outside the facility.”
- As stated in the *Policy and Procedure Document, Section I, Least Restrictive Environment*, each resident is entitled to “the least restrictive conditions necessary to achieve the purposes of the resident’s admission. The CBRF may not impose a curfew, rule or other restriction on a resident’s freedom of choice.”

Individuals have the freedom and support to control their own schedules and activities. [42 CFR § 441.301(c)(4)(vi)(C)]

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning: The plan must be based on an assessment that addresses the person's "capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known" and "social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs." (Statewide Transition Plan, pg. 72; Summarized from Wis. Admin. Code § DHS 83.35) Rights: Licensees must protect the civil rights of residents. Residents have the right to make decision relating to care, activities, daily routines, and other aspects of life that enhance the resident's self-reliance and support the resident's autonomy and decision-making. (Summarized from Wis. Admin. Code § DHS 83.32)

Met Unmet Not Applicable

As stated in the *Policy and Procedure Document, Section K, Self-Determination*, each resident "makes decisions relating to care, activities, daily routines and other aspects of life which enhance the resident's self-reliance and support the resident's autonomy and decision-making."

The setting ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint, [42 CFR § 441.301(c)(4)(iii)].

Compliance within Wisconsin State Standards and Regulations

Rights: Residents have the right to be "treated with courtesy, respect and dignity by all employees of the facility and other providers of health care and pharmacists with whom the resident comes in contact." ([Statewide Transition Plan](#), pg. 72; Summarized from [Wis. Stat. § 50.09](#)).

Residents must be provided with "physical and emotional privacy in treatment, living arrangements, and in caring for personal needs" including, privacy for visits by spouse or domestic partner, or to share a room with a spouse or domestic partner if both are residents for the same facility; privacy concerning health care; confidentiality of health and personal records; and the right to approve or refuse their release to any individual outside the facility. (Statewide Transition Plan, pg. 72; Summarized from Wis. Stat. § 50.09).

"Any form of coercion to discourage or prevent a resident or the resident's legal representative from exercising any of the rights under this subchapter is prohibited. Any form of retaliation against a resident or the resident's legal representative for exercising any of the rights in this subchapter, or against an employee or any other person who assists a resident or the resident's legal representative in the exercise of any of the resident rights in this subchapter, is prohibited." (Statewide Transition Plan, pg. 72; Wis. [Admin. Code § DHS 83.32](#)).

In addition, each resident shall have all of the following rights: freedom from mistreatment; freedom from seclusion; freedom from chemical restraint; and freedom from physical restraints, except upon prior review and approval by DHS upon written authorization from the resident's primary physician or advanced practice nurse prescriber. DHS may place conditions on the use of a restraint to protect the health, safety, welfare, and rights of the resident. (Statewide Transition Plan; Summarized from Wis. Admin. Code § DHS 83.32).

Met Unmet Not Applicable

- In *Policy and Procedure, Section D, Freedom from Mistreatment*: "Be free from physical, sexual and mental abuse and neglect, and from financial exploitation and misappropriation of property." Under *Section E, Freedom from Seclusion*, each resident "be free from seclusion."
 - As stated in *Policy and Procedure, Section F, Freedom from Chemical Restraints*, and *Section G, Freedom from Physical Restraints*, each resident "be free from physical restraints and chemical restraints except upon prior review and approval by the department with written authorization from the resident's physician."
-

Individuals are able to have visitors of their choosing at any time. [42 CFR § 441.301(c)(4)(vi)(D)]

Compliance within Wisconsin State Standards and Regulations

Rights: Residents have the right to private and unrestricted communications with their family, physician or other medical provider, attorney, and any other person, unless documented as medically contraindicated. The right to private and unrestricted communications includes the right to reasonable access to a telephone for private communications; and the opportunity for private visits. (WI Statewide Transition Plan; Summarized from Wis. Stat. § 50.09).

Met Unmet Not Applicable

Program Policy and Assisted Living Resident’s Rights confirm that residents may have visitors at any time, 24-7.

Individuals have access to food at any time.

Compliance within Wisconsin State Standards and Regulations

The CBRF must provide each resident with palatable food that meets the recommended dietary allowance based on current guidelines, including at least three meals a day and a snack in the evening, or more often based on the resident’s dietary needs. If a resident is away during meal time, the CBRF shall offer food to the resident on the resident’s return. The CBRF shall make reasonable adjustments to the menu for individual resident likes, habits, customs, condition, and appetites. (Summarized from Wis. Admin. Code § DHS 83.41).

Met Unmet Not Applicable

Program Statement affirms that each resident is entitled to three meals and snacks on a 24-hour basis. Meal choices are available to each resident and dietary considerations made in consultation with the resident and the nutritionist. There is a café, store and other amenities, on campus, that sell snacks and refreshments.

The living unit is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services:

- The individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the applicable landlord/tenant laws.
- The State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction’s landlord tenant law. [42 CFR § 441.301(c)(4)(vi)(A)]

Compliance within Wisconsin State Standards and Regulations

“Each resident shall have a written agreement that is signed by and provided to each party. The agreement includes a description of the space to be provided to the resident, the agreed upon rate, a statement of the resident’s rights and the terms of termination, including timeframes. The agreement is updated annually.” ([WI Statewide Transition Plan](#), pg. 77; [Wis. Admin. Code § DHS 83.29](#)).

The agreement must include terms for resident notification to the CBRF of voluntary discharge, and reasons and notice requirements for involuntary discharge or transfer, including transfers within the CBRF. (Summarized from [Wis. Admin. Code § DHS 83.31](#)).

Met Unmet Not Applicable

The St. Camillus CBRF Admission Agreement describes monthly charges, bed hold fees and other charges. Either party, in compliance with Wis. Admin., delineates discharge and termination procedures including a 30-day notice. Code § DHS 83.31.

Overcoming Institutional Presumption

The setting demonstrated a meaningful physical distinction between the HCBS setting and the institutional setting, including separate entrances and signage, physical divisions, and differences in décor.

Met Unmet Not Applicable

- Description submitted describing evidence of physical distinction cites that “St. Camillus has separate entrances for each licensed facility on campus. Signage both inside and outside directs visitors to the setting and the individual entrances. Each of the three licensed CBRFs has separate outside and internal entrances, separate décor and signage.”
- Photo submitted that shows the sign, “St. Camillus Assisted Living.”
- Photo submitted that shows the South Residence Lobby entrance and directs visitors to the CBRF apartments in the North Residence and the Assisted Living Apartments in the South Residence.
- Photos of common areas, lounges, etc. of the CBRF show home-like furnishings and softer color schemes.

Each individual has privacy in their sleeping or living unit.

Compliance within Wisconsin State Standards and Regulations

Residents must be provided with “physical and emotional privacy in treatment, living arrangements, and in caring for personal needs” including, privacy for visits by spouse or domestic partner, or to share a room with a spouse or domestic partner if both are residents for the same facility; privacy concerning health care; confidentiality of health and personal records; and the right to approve or refuse their release to any individual outside the facility. (Statewide Transition Plan; Summarized from Wis. Stat. § 50.09).

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance surveyors that the setting (DQA, [F-02138](#), HCBS Compliance Review):

- Provides lockable key entry doors on all resident rooms, and individual keys to all residents.
- Has a policy ensuring that staff uses facility keys to enter a resident’s room only under circumstances agreed upon with the resident.

Met Unmet Not Applicable

- St. Camillus has both a North and South Residence with 76 apartments. As of January, 2021 is 63 resident, with 6 residents supported with [Family Care](#) Medicaid long-term care funding.
- St. Camillus CBRF submitted pictures of resident rooms with locks. Additionally, St. Camillus attested to the HCBS lock and policy requirement for the settings rule.
- Each of the living units include a private suite and each unit has an individual keyed lock.

Individual living units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.

Compliance within Wisconsin State Standards and Regulations

Locks on living unit doors allow the resident to exercise his or her right to privacy and personal choice. Staff in each residential setting should always knock and receive permission prior to entering a resident’s living space. DHS expects the residential setting to have a policy in place to ensure that staff always knock and receive permission prior to entering a resident’s room or personal living space to respect residents’ rights to privacy. Please refer to DHS’ [Frequently Asked Questions \(FAQs\) about Door Locks in Adult Long-Term Care Residential Settings](#) for additional lock-related information.

Met Unmet Not Applicable

As part of the *Policy and Procedure Handbook, Section U, Privacy*: Each resident has the right to privacy in their living quarters.

Individuals sharing units have a choice of roommates in that setting.

Compliance within Wisconsin State Standards and Regulations

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance surveyors that residents have choice of roommates (DQA, [F-02138](#), HCBS Compliance Review):

Person-Centered Planning: Family Care Provider Network, I. Access to Providers: “For residential care facilities, evidence of adequate capacity shall include identification of the availability of residential providers offering private rooms, and a process for moving an individual to a private room when one becomes available that is consistent with the member’s preferences.” ([DHS-MCO Contract, Article VIII, I\(6\)d](#))

Met Unmet Not Applicable

All apartments are for single individuals and in some cases, the one bedroom apartments are for couples. Shared units involving roommates is not an issue at St. Camillus.

Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement. [42 CFR § 441.301(c)(4)(vi)(B)(1-3)]

Compliance within Wisconsin State Standards and Regulations

Met Unmet Not Applicable

- Each apartment in both the North and South residences are completely unfurnished and decorated by the residents with their own furniture and belongings. Each apartment has great views of the landscaped terrace and outdoor courtyards.
- Photos submitted of resident apartments illustrate homey atmospheres, large spacious apartments, individual preferences, etc.

The setting is physical accessible to the individual. [42 CFR § 441.301(c)(4)(vi)(E)]

Compliance within State Standards

Met Unmet Not Applicable

St. Camillus is physically accessible, as evidenced in *Policy Handbook, Section N, Safe Environment*, and each resident is safeguarded from environmental hazards, physical barriers and hazardous conditions.

Operational Distinction

The setting demonstrated meaningful operational distinction between the institution and the community-based setting, such as minimal administrative and financial interconnectedness.

Met Unmet Not Applicable

- Documents submitted show separate accounting of residents personal funds account for the CBRF and the SNF.
- St. Camillus Department Directory show that there are separate Administrative Directors for the CBRFs and the other settings.
- Screenshot submitted confirms that each licensed area of the campus has a separate worksheet for developing goals and objectives.
- Job descriptions were submitted for the CBRF and the SNF’s positions, which show separate responsibilities.
- Executive financial summaries submitted demonstrate a clear differentiation in financial accounting and operations between the CBRFs and the SNF.

There is a distinction between staff for the HCBS setting and the institutional setting. Staff working in the HCBS setting receive initial and ongoing training on HCBS settings rule requirements and principles, and person-centered planning.

Met Unmet Not Applicable

- Documentation submitted indicate that few staff are shared between the Assisted Living programs and the SNF. There are two CNAs and one LPN who are cross-trained and any staff who work in both areas receive training in both areas prior to working in the new area.

-
- Submitted list of *Assisted Living Training Curriculum* summarizes HCBS initial training and ongoing resident rights training.
-

DHS Recommendation

DHS finds that *St. Camillus CBRF* possesses the required home and community-based characteristics, is not isolating in nature, and overcomes the presumption of having institutional qualities.

Please note that these findings are preliminary only and must receive final approval from CMS.

In accordance with federal requirements, all compliance results will be made public by DHS. The decision will appear on the subsequent upload of facility information to DHS websites, including the [DQA Provider Search webpage](#) and the provider directories available at the [Consumer Guide to Health Care – Finding and Choosing an Assisted Living Facility webpage](#).

Ongoing Compliance

Wisconsin's Division of Quality Assurance (DQA) will ensure through ongoing compliance reviews that *St. Camillus CBRF* continues to meet the requirements of the HCBS Settings Rule. The DMS Bureau of Assisted Living (BAL) has incorporated the HCBS settings rule into its current assisted living survey process and activities. ([DQA Implementation of Home and Community-Based Services Settings Rule in Residential Assisted Living Facilities](#))

Waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are certified by the Wisconsin Department of Health Services (DHS) and work within the requirements of contracts with DHS. State licensed settings are subject to unannounced licensing visits, both in response to complaints and during regular oversight visits, by the state licensing authority, or by the entity that certified the provider if not regulated by the state. As part of these periodic licensing or certification reviews, the credentialing entity will also review the setting for continued HCBS compliance. Providers will be required to address any HCBS rule deficiencies.

When HCBS participants are resident in the setting, waiver program care managers are required to have ongoing contact, including face-to-face visits, at which time any areas of concern would be identified and addressed. Each participant in a Medicaid home and community-based waiver program is further protected through the state's long-term care ombudsman program, which has regular access to the assisted living setting. [Wisconsin's Board on Aging & Long Term Care](#): The Board on Aging and Long Term Care advocates for the interests of Wisconsin's long-term care consumers, informs those consumers of their rights and educates the public about health care systems and long-term care. The Board also operates the [Long Term Care Ombudsman](#), and [Volunteer Ombudsman](#) services.

DEPARTMENT OF HEALTH SERVICES
Division of Medicaid Services
F-02383A (01/2021)

EVIDENTIARY ASSESSMENT AND SUMMARY
Home and Community-Based Services (HCBS) Settings Rule
Heightened Scrutiny Review – Community-Based Residential Facility (CBRF)

Facility Name Timber Oaks		Facility Type Community-Based Residential Facility (CBRF)	
Corporate Name (if applicable) Gallina Health Care Network		License/Certification # 310564	County Racine
Facility Address 1390 8th Ave.	City Union Grove	State WI	Zip Code 53182
Primary Contact Name Steven Kuranz	Primary Contact Direct Phone (include area code) 262-878-2788	Primary Contact Email Address skuranz@oakridgecarecenter.com	
Facility Website Address https://www.oakridgecarecenter.com/timber-oaks-assisted-living/assisted-living/			

Reason for Institutional Presumption

- Settings in a publicly or privately operated facility that provides inpatient institutional treatment. [Oak Ridge Care Center](#)
- Settings on the grounds of, or adjacent to, a public institution. Name of institution: [Click or tap here to enter text.](#)
- Settings with the effect of isolating individuals from the broader community of individuals not receiving HCBS waiver services.

The Centers for Medicare and Medicaid Services’ (CMS) HCBS settings rule assumes that certain settings are not home and community-based. If a Wisconsin assisted living facility (setting) meets one of the criteria for institutional presumption as defined above, the DHS Division of Medicaid Services (DMS) conducts a heightened scrutiny review.

DMS believes that Timber Oaks has overcome the institutional presumption and meets the criteria of a home and community-based services setting as summarized below.

To reinforce the extent to which Wisconsin’s licensing and certification regulations and standards align with and reinforce the HCBS settings rule, the applicable state standard or regulation is included, where applicable, with the compliance review summary below.

Facility Summary

Union Grove, a village of 4,500, is located in Racine County, Wisconsin, about five miles west of I-94, the main highway between Chicago and Milwaukee. Since 1974, the 74-bed Oak Ridge Care Center has been providing superior skilled nursing care to area residents and families. Family owned and operated, the Oak Ridge campus is an important part of the Union Grove community, committed to helping enhance the lives of

everyone who chooses to live there. The CBRF community of Timber Oaks opened its doors in 1991, providing a perfect place to call home for seniors who don't need 24/7 health monitoring, but still require some assistance with the daily activities of life. Timber Oaks has 12 private rooms and nine semi-private rooms.

The setting is integrated in and supports full access to the greater community [42 CFR § 441.301(c)(4)(i)].

The community considers the setting a part of their community and does not associate the setting with institutional services.

Met Unmet Not Applicable

Since 1974, the 74-bed Oak Ridge Care Center has been providing superior skilled nursing care to the residents and families in the Union Grove area. Family owned and operated, the campus has been an important part of the Union Grove community, committed to helping enhance the lives of everyone who lives here. The Oak Ridge sister community, Timber Oaks, opened its doors in 1991, providing a perfect place to call home for seniors who don't need 24/7 health monitoring, but still require some assistance with the daily activities of life.

Timber Oaks encourages residents to remain part of their church and other organizations with whom they participated prior to living at Timber Oaks. Families and friends routinely have taken their residents to community activities of the resident's choosing. The Timber Oaks staff also takes residents out for community events such as parades and festivals, and more regularly for shopping and dining in local restaurants. Timber Oaks encourages outside organizations like school groups and church groups to come to the facility and to provide flyers advertising their events for residents to attend. Some church groups routinely ask Timber Oaks residents to volunteer at their community service projects. The family owned facility prides itself that the community thinks residents just "sleep here" and families continue a lot of involvement just as they did when their persons lived in apartments or their own homes. Families are very much involved, visiting often and taking residents out for activities, errands and appointments.

Individuals, to the extent they desire, have opportunities to participate in typical community life activities outside of the setting.

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning: The plan must be based on an assessment that addresses the person's "capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known" and "social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs." (Summarized from [Wis. Admin. Code § DHS 83.35](#))

Program Services: Community activities. The CBRF shall provide information and assistance to facilitate participation in personal and community activities. The CBRF shall develop, update and make available to all residents, monthly schedules and notices of community activities, including costs. ([Wis. Admin. Code § DHS 83.38\(1\)\(d\)](#))

Family and social contacts: The CBRF shall encourage and assist residents in maintaining family and social contacts. (Wis. Admin. Code § DHS 83.38(1)(e))

Met Unmet Not Applicable

Timber Oaks is a small facility. As such, opportunities for community events are discussed verbally with residents. Families of residents also inform Timber Oaks and its residents about community events. When residents express interest in community events Timber Oaks assures their wishes are met by providing transportation or setting up transportation. Some community group activities are planned by the facility activities staff, such as the men's weekly breakfast at area restaurants, shopping and participation in community festivities. Timber Oaks administration states that the facility takes great pride in individualizing the care each resident receives. The Timber Oaks team gets to know the resident and their interests. When a resident expresses an interest in an outside activity the facility will create an ISP and then assists the resident to pursue their wishes. The activity department may plan community outings that may have a separate

cost. Timber Oaks encourages outside organizations like school groups and church groups to come to the facility as well as provide flyers for activities of interest to the residents. Timber Oaks encourages residents to remain part of their church and other organizations with whom the residents participated prior to living at Timber Oaks. Families routinely have taken their residents to community activities of the resident's choosing. Timber Oaks staff also takes residents to parades, shopping at Walmart and other local stores, and out to eat.

Activities are individualized or include more than just setting-based group activities.

Met Unmet Not Applicable

When residents express interest in community events Timber Oaks assures the residents wishes are met by providing transportation or setting up transportation. Some community group activities may be planned by the facility activities staff, such as men's weekly breakfast at area restaurants, shopping or participation in community festivities. Timber Oaks administration states that the facility takes great pride in individualizing the care each resident receives. The Timber Oaks team gets to know the resident and their interests. When a resident expresses an interest in an outside activity the facility will create an ISP and then assist the resident in pursuing their wishes.

The setting supports access to community activities through its own transportation or coordination of transportation options.

Met Unmet Not Applicable

Timber Oaks will assist residents to set up transportation either by providing the transportation, contacting families to provide transport or contacting a medical or other transportation company to provide transport. No residents of Timber Oaks have had their own car at this time but if they did, a parking space would be assigned for them in the Timber Oaks parking lot. There also is a campus van for activities and other uses. Residents are free to come and go and can get rides with whomever they wish.

Individuals, if they choose, have opportunities to seek employment and work in competitive integrated settings.

Met Unmet Not Applicable

As part of the member centered planning process, residents supported with waiver funds discuss employment and volunteer preferences at each MCP review. According to the administration, residents of Timber Oaks have not expressed a desire to pursue employment opportunities but if a resident were to do so, Timber Oaks would work with the resident to assist with setting up transportation or providing transportation if necessary. Outside organizations such as churches provide volunteer opportunities both on campus and outside the facility. If a resident wishes to volunteer outside the facility, Timber Oaks would work with the organization and the resident to help make that happen.

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning:

The plan must be based on an assessment that addresses the person's "capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known" and "social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs." ([WI Statewide Transition Plan](#); Summarized from [Wis. Admin. Code § DHS 83.35](#)).

From contract between DHS and specific MCOs:

V. Care Management:

C. Assessment and Member-Centered Planning Process

C.1. Comprehensive Assessment

C.1.(c) Documentation: The comprehensive assessment will include documentation by the IDT staff of:

C.1.(c)(viii) An exploration with the member of the member's preferences and opportunities for community integration including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community.

C.3. Member-Centered Planning

C.3.(c)(iv)(g) The setting in which the member resides supports integration into 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.

VII. Services

A. General Provisions

1. Comprehensive Service Delivery System

c. Serve to maintain community connections, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, and that are cost effective.

Addendum I

It is the DHS's "expectation under this contract that benefits will be fully integrated and will afford options that foster opportunities for interaction and integration into 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 while supporting each member's individual outcomes and recognizing each member's preferences."

Individuals are able to control their personal resources.

Compliance within Wisconsin State Standards and Regulations

Every resident in a community-based residential facility has the right to "manage the resident's own financial affairs, unless the resident delegates, in writing, such responsibility to the facility and the facility accepts the responsibility or unless the resident delegates to someone else of the resident's choosing and that person accepts the responsibility." (Statewide Transition Plan; [Wis. Stat. § 50.09](#)).

Met Unmet Not Applicable

The Timber Oaks admission agreement attachment, personal account, either authorizes the center to open a personal account and to manage personal funds if the resident wishes, or confirms that the resident does not wish to open a personal account held by the center. If the resident chooses to have a personal funds account, funds are available through the business office during business hours or after hours through the facility person-in-charge who has access to a locked box with cash. Residents may request a lockbox in their room or a nightstand with a locking drawer. Because residents can come and go as they wish, they can continue banking at their preferred financial institution.

The setting is selected by the individual from among setting options including non-disability specific settings. [42 CFR § 441.301(c)(4)(ii)].

Compliance within Wisconsin State Standards and Regulations

Wisconsin has protections in place for Medicaid waiver participants which ensure they understand their choices. DHS waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are responsible for discussing choice of service settings with the waiver participant and family/guardian to locate the most suitable provider setting, including a discussion of living in a non-disability specific setting. In practice, the waiver agencies are complying with this requirement, and documenting and monitoring the choice of settings in the member-centered plan or IRIS support and service plan, as applicable.

In Wisconsin, the choice of setting requirement is not the initial responsibility of the provider setting. Rather the choice of setting takes place through the person-centered planning process at the waiver agency level. Waiver agencies are certified by DHS and work within the requirements of contracts with DHS. Through ongoing monitoring, Wisconsin will ensure that individuals maintain the right to choose where they reside.

Additionally, Wisconsin has protections in place through *Pre-Admission Consultation (PAC)*: <https://www.dhs.wisconsin.gov/adrc/pros/pac.htm>.

“Pre-admission consultation is a service provided by Aging and Disability Resource Centers (ADRCs) to individuals who are in the process of considering or making a decision about the need to move out of his or her home in order to receive the help they need to remain independent and safe. Sometimes people are unaware that there are services and supports that can be provided right in their own home, often making a move unnecessary. Those who want to move into a nursing home or assisted living facility (such as a community based residential facility or residential care apartment complex), can find it difficult to know which facility would be the best for them or a loved one.”

Met Unmet Not Applicable

At each member centered planning review, discussion about member’s outcomes and goals include discussion about where they want to live. The Timber Oaks ISP process also discuss living arrangement. One ISP confirms “resident stated he is happy living here at Timber Oaks.” While many residents choose to move to Timber Oaks while they are private pay, persons who are supported with waiver funds may also choose and be approved to live at Timber Oaks.

The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and resources available for room and board. [42 CFR § 441.301(c)(4)(ii)].

Compliance within Wisconsin State Standards and Regulations

“COMPREHENSIVE INDIVIDUAL SERVICE PLAN Individual service plan review. Annually or when there is a change in a resident's needs, abilities or physical or mental condition, the individual service plan shall be reviewed and revised based on the assessment under sub. (1). All reviews of the individual service plan shall include input from the resident or legal representative, case manager, resident care staff, and other service providers as appropriate.” ([Wis. Admin. Code § DHS 83.35 \(1\)\(d\)](#))

Met Unmet Not Applicable

At each member centered planning review, discussion about member’s outcomes and goals include discussion about where they want to live. The Timber Oaks ISP process also discuss living arrangement. One ISP confirms “resident stated he is happy living here at Timber Oaks.” While many residents choose to move to Timber Oaks while they are private pay, persons who are supported with waiver funds may also choose and be approved to live at Timber Oaks.

The setting facilitates choice regarding services and supports, and who provides them. Individuals have a choice in selecting their service providers, and are not reliant on services from the institution to the exclusion of other community-based options. Individuals can choose to receive services in the community to the same degree as individuals not receiving Medicaid HCBS. [42 CFR § 441.301(c)(4)(v)]

Compliance within Wisconsin State Standards and Regulations

Before or at the time of admission, the CBRF shall provide written information regarding services available and the charges for those services to each resident or the resident’s legal representative. This information shall include any charges for services not covered by the daily or monthly rate (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.29](#)).

Person-Centered Planning

- “Options of services, providers, and settings, including non-disability specific settings, are offered to participants in all Wisconsin HCBS programs.” (WI Statewide Transition Plan; Summarized from Wis. HCBS waivers, waiver-specific contracts, and policy documents.)
- Residents have the right to “use the licensed, certified or registered provider of health care and pharmacist of the resident’s choice.” ([Wis. Stat. § 50.09](#))

Met Unmet Not Applicable

Timber Oaks admission agreement attachment 4 is the authorization for physician assignment, ophthalmology service, dental service and podiatry service and if the resident wishes to use the services of the contracted providers, if they wish another provider for the service, or if they do not want the services at this

time. The pharmacy, Health Direct. Makes deliveries daily and is the preferred pharmacy, though residents can choose the pharmacy they prefer as long as it meets certain requirements of federal law. The drug purchase authorization form delineates the requirements.

The setting optimizes, but does 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. [42 CFR § 441.301(c)(4)(iv)]

Compliance within Wisconsin State Standards and Regulations

Rights: Licensees must protect the civil rights of residents. Residents have the right to make decision relating to care, activities, daily routines, and other aspects of life that enhance the resident's self-reliance and support the resident's autonomy and decision-making. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.32](#)).

Person-Centered Planning: The plan must be based on an assessment that addresses the person's capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known, and social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts, and vocational needs. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.35](#)).

"The CBRF shall teach residents the necessary skills to achieve and maintain the resident's highest level of functioning." The CBRF shall provide or arrange services adequate to meet the needs of the residents including providing leisure time activities, facilitating participation in community activities, and encouraging and assisting residents in maintaining family and social contacts. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.38](#)).

Rights: Residents have the right to make decisions relating to care, activities, daily routines, and other aspects of life that enhance the resident's self-reliance and support the resident's autonomy and decision making, and have the least restrictive conditions necessary to achieve the purposes of the resident's admission. The CBRF may not impose a curfew, rule, or other restriction on a resident's freedom of choice. (Statewide Transition Plan; Summarized from Wis. Admin. Code § DHS 83.32).

Met Unmet Not Applicable

Timber Oaks reviews all ISP with the resident and families. Timber Oaks receives input from residents and families regarding their wishes. The residents and families approve and sign any changes to the ISP. The resident rights and other documents assure that individuals are free to choose their own schedules, to come and go as they wish, and to decide which activities they will participate in. Timber Oaks takes great pride in individualizing the care each resident receives. The Timber Oaks team gets to know the resident and their interests.

Individuals have the freedom and support to control their own schedules and activities. [42 CFR § 441.301(c)(4)(vi)(C)]

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning: The plan must be based on an assessment that addresses the person's "capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known" and "social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs." (Statewide Transition Plan, pg. 72; Summarized from Wis. Admin. Code § DHS 83.35) Rights: Licensees must protect the civil rights of residents. Residents have the right to make decision relating to care, activities, daily routines, and other aspects of life that enhance the resident's self-reliance and support the resident's autonomy and decision-making. (Summarized from Wis. Admin. Code § DHS 83.32)

Met Unmet Not Applicable

Timber Oaks residents are free to come and go as they choose, determine their own schedule, and decide who they wish to visit. All ISPs are developed with the resident and family. Timber Oaks receives input from residents and families regarding their wishes. The residents and families approve and sign any changes to the ISP. The resident rights and other documents assure that individuals have choice about how they wish to spend their day and the activities they

will participate in. Timber Oaks takes great pride in individualizing the care each resident receives. The Timber Oaks team gets to know the resident and their interests.

The setting ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint, [42 CFR § 441.301(c)(4)(iii)].

Compliance within Wisconsin State Standards and Regulations

Rights: Residents have the right to be "treated with courtesy, respect and dignity by all employees of the facility and other providers of health care and pharmacists with whom the resident comes in contact." ([Statewide Transition Plan](#), pg. 72; Summarized from [Wis. Stat. § 50.09](#)).

Residents must be provided with "physical and emotional privacy in treatment, living arrangements, and in caring for personal needs" including, privacy for visits by spouse or domestic partner, or to share a room with a spouse or domestic partner if both are residents for the same facility; privacy concerning health care; confidentiality of health and personal records; and the right to approve or refuse their release to any individual outside the facility. (Statewide Transition Plan, pg. 72; Summarized from Wis. Stat. § 50.09).

"Any form of coercion to discourage or prevent a resident or the resident's legal representative from exercising any of the rights under this subchapter is prohibited. Any form of retaliation against a resident or the resident's legal representative for exercising any of the rights in this subchapter, or against an employee or any other person who assists a resident or the resident's legal representative in the exercise of any of the resident rights in this subchapter, is prohibited." (Statewide Transition Plan, pg. 72; Wis. [Admin. Code § DHS 83.32](#)).

In addition, each resident shall have all of the following rights: freedom from mistreatment; freedom from seclusion; freedom from chemical restraint; and freedom from physical restraints, except upon prior review and approval by DHS upon written authorization from the resident's primary physician or advanced practice nurse prescriber. DHS may place conditions on the use of a restraint to protect the health, safety, welfare, and rights of the resident. (Statewide Transition Plan; Summarized from Wis. Admin. Code § DHS 83.32).

Met Unmet Not Applicable

The Timber Oaks resident rights policy and the admission agreement assures that residents are treated with dignity and respect and have privacy in their living units. Each unit has a private enclosed bathroom with sink, shower, and toilet. Some shared units have a wall between the beds, others arrange furniture to separate the sleeping areas, and other may have a privacy curtain to create separate spaces.

Individuals are able to have visitors of their choosing at any time. [42 CFR § 441.301(c)(4)(vi)(D)]

Compliance within Wisconsin State Standards and Regulations

Rights: Residents have the right to private and unrestricted communications with their family, physician or other medical provider, attorney, and any other person, unless documented as medically contraindicated. The right to private and unrestricted communications includes the right to reasonable access to a telephone for private communications; and the opportunity for private visits. (WI Statewide Transition Plan; Summarized from Wis. Stat. § 50.09).

Met Unmet Not Applicable

The Timber Oaks visitor and resident responsibilities document provides that visitors are welcome at any time and visitors are reminded to be aware of residents' preferred sleep schedules and that of their roommates. Private areas are available for visiting and residents may leave the facility with visitors if they wish. Residents have choice about who they wish to visit with.

Individuals have access to food at any time.

Compliance within Wisconsin State Standards and Regulations

The CBRF must provide each resident with palatable food that meets the recommended dietary allowance based on current guidelines, including at least three meals a day and a snack in the evening, or more often based on the resident's dietary needs. If a resident is away during meal time, the CBRF shall offer food to the resident on the resident's return. The CBRF shall make reasonable adjustments to the menu for individual resident likes, habits, customs, condition, and appetites. (Summarized from Wis. Admin. Code § DHS 83.41).

Met Unmet Not Applicable

The Timber Oaks visitor and resident responsibilities document states that three meals are served in the dining room daily and beverages are offered three times each day between meals. Residents may store non-perishable food in airtight containers and foods that require refrigeration may be left with the nurses station, refrigeration space permitting. Food for special occasions can be brought in but if it is to be shared with others, it must be store bought for safety purposes.

The living unit is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services:

- The individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the applicable landlord/tenant laws.
- The State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law. [42 CFR § 441.301(c)(4)(vi)(A)]

Compliance within Wisconsin State Standards and Regulations

"Each resident shall have a written agreement that is signed by and provided to each party. The agreement includes a description of the space to be provided to the resident, the agreed upon rate, a statement of the resident's rights and the terms of termination, including timeframes. The agreement is updated annually." ([WI Statewide Transition Plan](#), pg. 77; [Wis. Admin. Code § DHS 83.29](#)).

The agreement must include terms for resident notification to the CBRF of voluntary discharge, and reasons and notice requirements for involuntary discharge or transfer, including transfers within the CBRF. (Summarized from [Wis. Admin. Code § DHS 83.31](#)).

Met Unmet Not Applicable

The Timber Oaks admission agreement states that the facility will give the resident thirty day advance written notice of the impending discharge. The admission agreement further states "the resident may decide to terminate this agreement and leave the center at any time after first giving the center 30-day written advance notice." The 30 day advance written notice policy is not required if health, safety or security is an issue for the resident or other residents or staff, the resident has urgent medical needs, and the resident has resided in the center for less than thirty days.

Overcoming Institutional Presumption

The setting demonstrated a meaningful physical distinction between the HCBS setting and the institutional setting, including separate entrances and signage, physical divisions, and differences in décor.

Met Unmet Not Applicable

Timber Oaks has a separate address on a different street than the SNF, a separate entrance, a separate mailbox, and separate signage. Timber Oaks is separated from Oak Ridge Care Center by a hallway that is divided by three separate doors but the CBRF shares the same building space with the SNF. Residents living at Timber Oaks may have their own furniture and decorations, and the facility décor is different and home like compared to the SNF décor.

Each individual has privacy in their sleeping or living unit.

Compliance within Wisconsin State Standards and Regulations

Residents must be provided with “physical and emotional privacy in treatment, living arrangements, and in caring for personal needs” including, privacy for visits by spouse or domestic partner, or to share a room with a spouse or domestic partner if both are residents for the same facility; privacy concerning health care; confidentiality of health and personal records; and the right to approve or refuse their release to any individual outside the facility. (Statewide Transition Plan; Summarized from Wis. Stat. § 50.09).

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance surveyors that the setting (DQA, [F-02138](#), HCBS Compliance Review):

- Provides lockable key entry doors on all resident rooms, and individual keys to all residents.
- Has a policy ensuring that staff uses facility keys to enter a resident’s room only under circumstances agreed upon with the resident.

Met Unmet Not Applicable

The Time Oaks resident rights policy and the admission agreement assures that residents are treated with dignity and respect and have privacy in their living units. Each unit has a private enclosed bathroom with sink, shower, and toilet. Some shared units have a wall between the beds, others arrange furniture to separate the sleeping areas, and other may have a privacy curtain to create separate spaces.

Individual living units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.

Compliance within Wisconsin State Standards and Regulations

Locks on living unit doors allow the resident to exercise his or her right to privacy and personal choice. Staff in each residential setting should always knock and receive permission prior to entering a resident’s living space. DHS expects the residential setting to have a policy in place to ensure that staff always knock and receive permission prior to entering a resident’s room or personal living space to respect residents’ rights to privacy. Please refer to DHS’ [Frequently Asked Questions \(FAQs\) about Door Locks in Adult Long-Term Care Residential Settings](#) for additional lock-related information.

Met Unmet Not Applicable

Each resident room has its own door lock and the resident has their own key. Staff may enter using a master key as agreed upon with the resident for an emergency or a request for assistance.

Individuals sharing units have a choice of roommates in that setting.

Compliance within Wisconsin State Standards and Regulations

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance surveyors that residents have choice of roommates (DQA, [F-02138](#), HCBS Compliance Review)

Person-Centered Planning: Family Care Provider Network, I. Access to Providers: “For residential care facilities, evidence of adequate capacity shall include identification of the availability of residential providers offering private rooms, and a process for moving an individual to a private room when one becomes available that is consistent with the member’s preferences.” ([DHS-MCO Contract, Article VIII, I\(6\)d](#))

Met Unmet Not Applicable

Timber Oaks residents in shared rooms have choice of roommate and can change roommates if they wish. Residents who do not yet know each other have time to meet and talk with each other before requesting to be roommates. Facility staff listen to resident concerns and issues and would accommodate any request for a change.

Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement. [42 CFR § 441.301(c)(4)(vi)(B)(1-3)]

Compliance within Wisconsin State Standards and Regulations

Every resident in a community-based residential facility shall have the right to retain and use personal clothing and effects and to retain, as space permits, other personal possessions in a reasonably secure manner. (Summarized from Wis. Stat. § 50.09)

Met Unmet Not Applicable

Admission documents state that Timber Oaks residents are welcome to bring personal items and furniture to make this new home their own. Each room comes furnished with a bed, wardrobe closet, and a bedside table but residents may bring in their own furniture items, limited only by space and safety. Personal decorations, pictures and other such items are encouraged. Common items people bring are chairs, TVs, computers, and clothing.

The setting is physically accessible to the individual. [42 CFR § 441.301(c)(4)(vi)(E)]

Compliance within Wisconsin State Standards and Regulations

The bedroom and congregate dining and living area for any resident requiring a specified level of care and who is blind or not fully ambulatory shall be on the first floor. (Summarized from Wis. Admin. Code § DHS 83.50)

Bedrooms shall be designed and equipped to allow residents to achieve the highest level of independent functioning and shall be fully accessible to the resident. Within the bedroom, each resident shall have, or be provided with a closet or wardrobe with clothes hanging rods and shelves, and drawer space adequate to reasonably meet the needs of the resident. The bedroom shall have adequate accessible space for a resident's wheelchair or other adaptive or prosthetic equipment. (Summarized from Wis. Admin. Code § DHS 83.54)

Met Unmet Not Applicable

Timber Oaks is physically accessible and free from obstructions throughout the facility that would limit a resident's mobility in the setting.

Operational Distinction

The setting demonstrated meaningful operational distinction between the institution and the community-based setting, such as minimal administrative and financial interconnectedness.

Met Unmet Not Applicable

Financially, Timber Oaks CBRF is also a separate company from Oak Ridge SNF. Timber Oaks has its own federal and state identification number. Payroll, billing, account receivable, accounts payable and financial statements are separate. The employees work only for Timber Oaks. Timber Oaks has a full-time administrator and a full-time RN.

There is a distinction between staff for the HCBS setting and the institutional setting. Staff working in the HCBS setting receive initial and ongoing training on HCBS settings rule requirements and principles, and person-centered planning.

Met Unmet Not Applicable

Timber Oaks has distinct staffing from the Oak Ridge Care Center SNF. Staff at Timber Oaks has its own schedule of shifts and is not cross-trained to work at the SNF. There is no sharing of staff between the facilities. Training materials state that "For all services provided, staff will maintain 'The Three Key Principals of Assisted Living' by offering Choice, Maintaining Dignity and Promoting Individuality."

DHS Recommendation

Wisconsin can attest that Timber Oaks possesses the required home and community-based characteristics, is not isolating in nature, and overcomes the presumption of having institutional qualities.

Please note that these findings are preliminary only and must receive final approval from CMS.

In accordance with federal requirements, all compliance results will be made public by DHS. The decision will appear on the subsequent upload of facility information to DHS websites, including the [DQA Provider Search webpage](#) and the provider directories available at the [Consumer Guide to Health Care – Finding and Choosing an Assisted Living Facility webpage](#).

Ongoing Compliance

Wisconsin's Division of Quality Assurance (DQA) will ensure through ongoing compliance reviews that [Timber Oaks](#) continues to meet the requirements of the HCBS Settings Rule. The DMS Bureau of Assisted Living (BAL) has incorporated the HCBS settings rule into its current assisted living survey process and activities. ([DQA Implementation of Home and Community-Based Services Settings Rule in Residential Assisted Living Facilities](#))

Waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are certified by the Wisconsin Department of Health Services (DHS) and work within the requirements of contracts with DHS. State licensed settings are subject to unannounced licensing visits, both in response to complaints and during regular oversight visits, by the state licensing authority, or by the entity that certified the provider if not regulated by the state. As part of these periodic licensing or certification reviews, the credentialing entity will also review the setting for continued HCBS compliance. Providers will be required to address any HCBS rule deficiencies.

When HCBS participants are resident in the setting, waiver program care managers are required to have ongoing contact, including face-to-face visits, at which time any areas of concern would be identified and addressed. Each participant in a Medicaid home and community-based waiver program is further protected through the state's long-term care ombudsman program, which has regular access to the assisted living setting. [Wisconsin's Board on Aging & Long Term Care](#): The Board on Aging and Long Term Care advocates for the interests of Wisconsin's long-term care consumers, informs those consumers of their rights and educates the public about health care systems and long-term care. The Board also operates the [Long Term Care Ombudsman](#), and [Volunteer Ombudsman](#) services.

EVIDENTIARY ASSESSMENT AND SUMMARY
Home and Community-Based Services (HCBS) Settings Rule
Heightened Scrutiny Review – Residential Care Apartment Complex (RCAC)

Facility Name Tivoli Terrace		Facility Type Residential Care Apartment Complex (RCAC)	
Corporate Name (if applicable) St. Anne's Salvatorian Campus		License/Certification # 0010362	County Milwaukee
Facility Address 3800 North 92 nd Street	City Milwaukee	State WI	Zip Code 53222
Primary Contact Name Lynn M Vogt	Primary Contact Direct Phone (include area code) 414-760-9451	Primary Contact Email Address lvogt@stannescampus.org	
Facility Website Address www.stannes.org			

Reason for Institutional Presumption

- Settings in a publicly or privately operated facility that provides inpatient institutional treatment. Click or tap here to enter text.
- Settings on the grounds of, or adjacent to, a public institution. Name of institution: Click or tap here to enter text.
- Settings with the effect of isolating individuals from the broader community of individuals not receiving HCBS waiver services.

The Centers for Medicare and Medicaid Services' (CMS) HCBS settings rule assumes that certain settings are not home and community-based. If a Wisconsin assisted living facility (setting) meets one of the criteria for institutional presumption as defined above, the DHS Division of Medicaid Services (DMS) conducts a heightened scrutiny review.

DMS believes that Tivoli Terrace has overcome the institutional presumption and meets the criteria of a home and community-based services setting as summarized below.

To reinforce the extent to which Wisconsin's licensing and certification regulations and standards align with and reinforce the HCBS settings rule, the applicable state standard or regulation is included, where applicable, with the compliance review summary below.

Facility Summary

The Little Sisters of the Poor founded St. Anne's Salvatorian Campus in 1876 in the name of St. Anne, the mother of the Virgin Mary and grandmother of Jesus Christ. Sponsorship was transferred to the Sisters of the Divine Savior in 1992. St. Anne's moved in 1967 to its current location on Milwaukee's northwest side. St. Anne's is the oldest Catholic elderly care facility in the Milwaukee Archdiocese. Tivoli Terrace, a residential care apartment complex (RCAC), is part of the St. Anne's Salvatorian Campus. In addition to Tivoli Terrace, St. Anne's has two community based residential facilities (CBRF) – Mission Court and Providence Court. There are 24 private apartments at Tivoli Terrace; currently there are 34 residents, with 8 residents supported through [Family Care](#) Medicaid long-term care funding. The spacious studio apartments at Tivoli Terrace each have private bathrooms and kitchenettes, and provide the residents with privacy

and freedom. Tivoli Terrace is located on the third floor of the campus, and each of the units have shared living areas on each of their floors including a den, parlor lounge, activity room, library and spa. Located in the heart of downtown Milwaukee, Wisconsin, residents at the St. Anne's campus enjoy many cultural activities, dining establishments and local destinations as part of a comprehensive activity program.

The setting is integrated in and supports full access to the greater community [42 CFR § 441.301(c)(4)(i)].

The community considers the setting a part of their community and does not associate the setting with institutional services.

Met Unmet Not Applicable

- An onsite review was conducted with the lead team members, the administrator, and the director of nursing services. During the onsite, the reviewer also met with four volunteers from the Milwaukee and St. Anne's community. The volunteers provided testimonials that St. Anne's is seen as a vital part of Milwaukee, with most of the residents at St. Anne's being long-time members of the church. The volunteer perceptions were positive for how the community sees St. Anne's. Many of the volunteers have current or past family members living at St. Anne's, and many of the residents at St. Anne's continue to volunteer, attend events, etc. in the greater Greenfield-Milwaukee, Wisconsin area.
- St. Anne's also sponsors events in Milwaukee for Milwaukee residents, including holiday bazaars, bake sales, and religious services.

Individuals, to the extent they desire, have opportunities to participate in typical community life activities outside of the setting.

Compliance within Wisconsin State Standards and Regulations

From [contract between SMA and specific MCOs](#):

ADDENDUM VI.

Personal Experience Outcomes in Long-Term Care:

Assisting people to achieve their desired individual quality-of-life outcomes is one of the primary goals of managed long-term care. The following personal experience outcome domains are the areas of life that people in long-term care programs have identified as being important to their quality of life. They provide a framework for learning about and understanding the individual's needs, values, preferences, and priorities in the assessment and care planning process and in monitoring the quality of our long-term care programs. It is expected that each of these domains will be assessed during the member-centered planning process.

Choice – choosing:

- Where and with whom to live
- Supports and services
- Daily routines

Personal Experience – having:

- Interaction with family and friends
- Work or other meaningful activities
- Community involvement
- Stability
- Respect and fairness
- Privacy

Each participant in a Medicaid home and community-based waiver program must have a person-centered plan that, when indicated, includes any conditions that are to be applied to the conditions defined in the HCBS settings rule. (Wisconsin HCBS waivers, waiver-specific contracts, and policy documents)

Met Unmet Not Applicable

- *Residents Rights Policy*: States that “residents are free to choose and participate in activities of their own choice.”
- *Activity Calendars*: Comprehensive in-house and external events are available to the residents, including trips to the museums, dining out, Miller Park Milwaukee Brewers, and Green Bay Packers games.
- During the onsite, the reviewer met with a number of residents during lunch. They discussed the programming, transportation options, visitor policies, and the residents agreed that St. Anne’s is their 2nd home. They communicated that they love the fact that the facility is part of Milwaukee and that many of their friends and family members live at St. Anne’s.
- Sample person-centered plans were submitted and reviewed, reflecting individual choice in activities. Although COVID-19 has halted community activities, residents of Tivoli Terrace enjoy a robust schedule of indoor events and programs.

Activities are individualized or include more than just setting-based group activities.

Met Unmet Not Applicable

- The Tivoli Terrace *Program Statement* highlights community and facility activities. “Each resident is encouraged to stay involved in normal community activities.” A list of in-house activities are posted on the bulletin boards and the community activities are posted on a monthly basis and each resident gets activity calendars and activities are provided seven days a week.
- Review of person-centered plans and resident files samples for five individuals confirmed that planning is based on the individual needs and choices. Residents can express interest areas, events that they would like to attend, etc.
- At the onsite visit, the reviewer observed TV consoles with activities listed for the day and the upcoming week.
- Activity schedules are different from the CBRF activities and specific to the RCAC.

The setting supports access to community activities through its own transportation or coordination of transportation options.

Met Unmet Not Applicable

- *Resident Handbook* states “residents are free to access any service in the community per their own choice. Residents are free to make their own schedules and are free to come and go as they please.”
- During the onsite review in 2019, interview with two residents confirmed that they still operate their own vehicles.
- Transportation options are plenty- Residents arrange for cab, ride share services, agency van for appointments and the staff will assist with transportation for each resident.

Individuals, if they choose, have opportunities to seek employment and work in competitive integrated settings.

Compliance within Wisconsin State Standards and Regulations

From contract between DHS and specific MCOs:

V. Care Management:

C. Assessment and Member-Centered Planning Process

C.1. Comprehensive Assessment

C.1.(c) Documentation: The comprehensive assessment will include documentation by the IDT staff of:

C.1.(c)(viii) An exploration with the member of the member’s preferences and opportunities for community integration including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community.

C.3. Member-Centered Planning

C.3.(c)(iv)(g) The setting in which the member resides supports integration into 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.

VII. Services

A. General Provisions

1. Comprehensive Service Delivery System

c. Serve to maintain community connections, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, and that are cost effective.

Addendum I

It is the DHS's "expectation under this contract that benefits will be fully integrated and will afford options that foster opportunities for interaction and integration into 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 while supporting each member's individual outcomes and recognizing each member's preferences."

Met Unmet Not Applicable

Residents of Tivoli Terrace control their own schedules and choose their own activities. Three of the residents that I interviewed during the onsite review, still volunteer at their local parish and one of the residents drives the other two residents for their volunteers afternoon. Although the vast majority of residents do not work, volunteering and work would be encouraged if they so choose.

Individuals are able to control their personal resources.

Compliance within Wisconsin State Standards and Regulations

Each tenant has the right to manage his or her own financial affairs, unless the tenant delegates responsibility to another person or the tenant has a guardian. (Summarized from [Wis. Admin. Code § DHS 89.34](#))

From [contract between SMA and specific MCO](#):

V. Care Management:

C. Assessment and Member-Centered Planning Process

C.1. Comprehensive Assessment

C.1.(c) The comprehensive assessment will include documentation by the interdisciplinary (IDT) staff of all of the following:

(ix) An exploration with the member of the member's preferences and opportunities for community integration including opportunities to control personal resources.

C.3. Member-Centered Plan (MCP)

C.3.(c)(iv) The MCP shall document at least the following:

(g) The setting in which the member resides supports integration into the greater community, including opportunities to control personal resources.

Met Unmet Not Applicable

Based on verification of this HCBS compliance rule and resident interviews, each resident at Tivoli Terrace has the right to manage his/her personal resources unless delegated by the resident to someone of their choosing. Confirmation of this policy is outlined in the Resident Handbook, which indicates that in addition to personal management of funds and resources, each resident has a choice in selecting non-residential services as well as medical and social service providers. As to personal funds, each resident can choose their own bank or choose to work with the facility in setting up an account.

Choice, Independence, and Person-Centered Planning

The setting is selected by the individual from among setting options including non-disability specific settings. [42 CFR § 441.301(c)(4)(ii)].

Compliance within Wisconsin State Standards and Regulations

Wisconsin has protections in place for Medicaid waiver participants which ensure they understand their choices. DHS waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are responsible for discussing choice of service settings with the waiver participant and family/guardian to locate the most suitable provider setting, including a discussion of living in a non-disability specific setting. In practice, the waiver agencies are complying with this requirement, and documenting and monitoring the choice of settings in the member-centered plan or IRIS support and service plan, as applicable.

In Wisconsin, the choice of setting requirement is not the initial responsibility of the provider setting. Rather the choice of setting takes place through the person-centered planning process at the waiver agency level. Waiver agencies are certified by DHS and work within the requirements of contracts with DHS. Through ongoing monitoring, Wisconsin will ensure that individuals maintain the right to choose where they reside.

Additionally, Wisconsin has protections in place through *Pre-Admission Consultation (PAC)*: <https://www.dhs.wisconsin.gov/adrc/pros/pac.htm>

“Pre-admission consultation is a service provided by Aging and Disability Resource Centers (ADRCs) to individuals who are in the process of considering or making a decision about the need to move out of his or her home in order to receive the help they need to remain independent and safe. Sometimes people are unaware that there are services and supports that can be provided right in their own home, often making a move unnecessary. Those who want to move into a nursing home or assisted living facility (such as a community based residential facility or residential care apartment complex), can find it difficult to know which facility would be the best for them or a loved one.”

From [contract between SMA and specific MCOs](#):

V. Care Management:

A. Member Participation:

A.2. Members shall receive clear explanations of:

- d. The full range of residential options, including in-home care, residential care and nursing home care when applicable.
- e. The benefits, drawbacks and likelihood of success of each option.

C.1. Comprehensive Assessment

C.1. (ix) – An exploration with the member of the member’s preferred living situation and a risk assessment for the stability of housing and finances to sustain housing as indicated.

C.3. Member-Centered Plan (MCP)

C.3.(c)(iv) The MCP shall document at least the following:

(f) – The home and community-based residential setting option chosen by the member and other options presented to the member unless the member declines to consider other options.

ADDENDUM VI.

Personal Experience Outcomes in Long-Term Care:

Assisting people to achieve their desired individual quality-of-life outcomes is one of the primary goals of managed long-term care. The following personal experience outcome domains are the areas of life that people in long-term care programs have identified as being important to their quality of life. They provide a framework for learning about and understanding the individual’s needs, values, preferences, and priorities in the assessment and care planning process and

in monitoring the quality of our long-term care programs. It is expected that each of these domains will be assessed during the member-centered planning process.

Choice – choosing:

- Where and with whom to live
- Supports and services

50.034, Stats

WI State Statute 50.034 Residential care apartment complexes.

5n) Required referral. Subject to sub. (5p), when a residential care apartment complex first provides written material regarding the residential care apartment complex to a prospective resident who is at least 65 years of age or has developmental disability or a physical disability and whose disability or condition is expected to last at least 90 days, the residential care apartment complex shall refer the prospective resident to a resource center under s. [46.283](#), unless any of the following applies:

- [50.034\(5n\)\(c\)](#) The person is an enrollee of a care management organization.

Person-Centered Planning: Options of services, providers, and settings, including non-disability specific settings, are offered to participants in all Wisconsin HCBS programs. ([Statewide Transition Plan](#), pg. 85; Wisconsin HCBS waivers, waiver-specific contracts, and policy documents)

Met Unmet Not Applicable

- A review of person-centered plans confirm that Tivoli Terrace was selected from a choice of a variety of setting options, including non-disability specific settings. Additionally, documentation of annual review of choice of settings indicate that this setting continues to be the setting of choice for the individual. They would sign on the line Family/Significant Other Signature of the person-centered plan.
- Evidentiary materials submitted include the St. Anne’s Salvatorian brochure that lists the services available campus-wide, and that choice was part of the culture of St. Anne’s. Prior to their placements, many of the residents had already selected St. Anne’s and Tivoli Terrace was their choice for senior living.
- Copies of signature pages of three person-centered support plans confirm choice in settings as well as confirmation of discussions during annual reviews that confirm that this setting continues to be the setting of choice. Additionally, resident interviews conducted during the onsite review included a question regarding choice of settings and each resident interview confirmed that the resident was actively involved in yearly planning and was able to exercise preference for setting.

The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and resources available for room and board. [42 CFR § 441.301(c)(4)(ii)].

Compliance within Wisconsin State Standards and Regulations

Wisconsin Admin. Code ch. DHS 89 is intended “to establish standards and procedures for the certification or registration of residential care apartment complexes in order to promote the health and safety of persons residing in and receiving services from those facilities. This chapter is intended to ensure that all residential care apartment complexes provide each tenant with an independent apartment in a setting that is home-like and residential in character; make available personal, supportive and nursing services that are appropriate to the needs, abilities and preferences of individual tenants; and operate in a manner that protects tenants’ rights, respects tenant privacy, enhances tenant self-reliance and supports tenant autonomy in decision-making including the right to accept risk.” ([Wis. Admin. Code § DHS 89.11](#))

The tenant has the right to choose services and the right to refuse services. The tenant has the right to receive visitors, meet with groups, or participate in activities of the tenant’s choice, to receive and send sealed mail, and to have a private phone installed in his or her independent apartment. (Summarized from [Wis. Admin. Code § DHS 89.34](#))

Each tenant has the right to: manage his or her own financial affairs, unless the tenant delegates responsibility to another person or the tenant has a guardian; have choice of his or her physician and other medical providers; and a choice of providers of supportive, personal, and nursing services from providers other than the residential care apartment complex, subject to the requirements of [Wis. Admin. Code § DHS 89.24\(2\)\(b\)](#).

From [contract between SMA and specific MCOs](#):

V. Care Management:

C. Assessment and Member-Centered Planning Process:

Member-centered planning reflects understanding between the member and the IDT staff and will demonstrate changes that occur with the member's outcomes and health status. The member is always central to the member centered planning and comprehensive assessment process. The IDT staff will ensure that the member is at the center of the member centered planning process. The member will actively participate in the planning process, in particular, in the identification of personal outcomes and preferences.

Met Unmet Not Applicable

- The Resident Handbook makes clear that the settings at St. Anne's campus," offers each individual the freedom to live as active lifestyle that they desire". Compliance within the Provider submitted documentation confirms that within the senior community, each individual can enjoy in house services, meal and complimentary services, dining options and a robust activity program planned for in house and external opportunities.
- Person centered planning supports that the setting is the individual's home and should be thought of and supported with a focus on individuality, privacy, needs, likes and preferences.
- Dining options, include a café, sandwich shop, dining room were observed during the onsite review and interviews conducted with the residents indicate that residents have a variety of choices for dining and access to food options at any time.
- During the onsite interviews, a number of the residents indicated that they also order food for delivery to St. Anne's and many of the residents dine out during the week.

The setting facilitates choice regarding services and supports, and who provides them. Individuals have a choice in selecting their service providers, and are not reliant on services from the institution to the exclusion of other community-based options. Individuals can choose to receive services in the community to the same degree as individuals not receiving Medicaid HCBS. [42 CFR § 441.301(c)(4)(v)]

Compliance within Wisconsin State Standards and Regulations

From Contract Between SMA and Each MCO:

VIII. Provider Network,

A. Member Choice

- Information to Members: The MCO shall inform members about the full range of provider choice available to them, including free choice of medical and other providers that remain fee-for-service for Family Care members, as applicable.

From [IRIS Policy Manual](#)

1.1C Philosophy

Self-direction means people have more choice, control, flexibility, freedom, and responsibility. Within the context of IRIS, self-direction means participants decide upon the following:

- The goods, supports, and services needed to help live the life he or she wants while meeting his or her long-term care outcomes.
- The amount and location that goods, supports, and services are provided, as well as decisions on the provider of these services.

Person-Centered Planning:

1. Options of services, providers, and settings, including non-disability specific settings, are offered to participants in all Wisconsin HCBS programs. (Statewide Transition Plan, pg. 87; Summarized from Wis. HCBS waivers, waiver-specific contracts, and policy documents.)
2. Residents have the right to “receive adequate and appropriate care within the capacity of the facility” and to “use the licensed, certified or registered provider of health care and pharmacist of the resident’s choice.” ([Wis. Stat. § 50.09](#))

Rights:

1. The tenant has the right to choose services and the right to refuse services. (WI Statewide Transition Plan, pg. 84; Summarized from Wis. Admin. Code § DHS 89.34)
2. Each tenant has the right to: have choice of his or her physician and other medical providers; and a choice of providers of supportive, personal, and nursing services from providers other than the residential care apartment complex, subject to the requirements of [Wis. Admin. Code § DHS 89.24\(2\)\(b\)](#). (WI Statewide Transition Plan, pg. 85; Summarized from Wis. Admin. Code § [DHS 89.34](#))

Met Unmet Not Applicable

- Review of the Assisted Living agreement (Page 3 E) - *Selection of Physician and other health care and service options*- indicate that the resident has the right to choose any licensed, certified or registered health care professional. There are healthcare and medical providers at St. Anne’s that the resident can choose but if they utilize outside services, St. Anne’s makes available transportation for those appointments.
- The Resident Handbook also cites that residents may “need to contract with third party (healthcare and professional) services in order to maintain each residents’ highest quality of life and degree of independence. Tenants are free to independently to contract with outside providers at their own expense.”
- Additionally, the CBRF will allow for residents to contract with home health and other third party service providers that support and maintain their residences.

The setting optimizes, but does 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. [42 CFR § 441.301(c)(4)(iv)]

Compliance within Wisconsin State Standards and Regulations

Wisconsin Admin. Code ch. DHS 89 is intended “to establish standards and procedures for the certification or registration of residential care apartment complexes in order to promote the health and safety of persons residing in and receiving services from those facilities. This chapter is intended to ensure that all residential care apartment complexes provide each tenant with an independent apartment in a setting that is home-like and residential in character; make available personal, supportive and nursing services that are appropriate to the needs, abilities and preferences of individual tenants; and operate in a manner that protects tenants’ rights, respects tenant privacy, enhances tenant self-reliance and supports tenant autonomy in decision-making including the right to accept risk.” ([Wis. Admin. Code § DHS 89.11](#))

Each tenant will have a service agreement based on an assessment conducted with the active participation of the tenant. The service agreement includes the type, amount, and frequency of any services to be provided to the tenant, any additional services that are available, and the activities and social connections the tenant will be assisted in maintaining. (Summarized from [Wis. Admin. Code §§ DHS 89.26 and 89.27](#))

The tenant has the right to choose services and the right to refuse services. The tenant has the right to receive visitors, meet with groups or participate in activities of the tenant’s choice, to receive and send sealed mail, and to have a private phone installed in his or her independent apartment. (Summarized from [Wis. Admin. Code § DHS 89.34](#))

Met Unmet Not Applicable

- Review of the Resident Handbook, Resident Rights Policy and Senior Living Policies support the right of each resident to enjoy individual choice, autonomy and independence in making choices about their activities, décor, living arrangements and St. Anne’s Mission and Providence Court Assisted

Living's philosophy and approach is to focus on the lifestyles and values of seniors and respect for individuality, independence, dignity, choice, privacy and a strong sense of well-being.

- A review of three (3) person -centered plans supported individual choice in activities, hobbies, religious observance, etc. In addition to person- centered plans, each resident has a wellness plan and an activity/recreational plan that assesses and documents interests, activities, involvement, etc.
- During the onsite review, the reviewer spoke with a group of residents and asked specific questions regarding their schedules, daily activities, dining options, privacy, apartment décor, etc. Each of the residents felt that they were able to make choices independent of the setting and that the setting supported their choices with assistance with transportation, access to services, etc.

Individuals have the freedom and support to control their own schedules and activities. [42 CFR § 441.301(c)(4)(vi)(C)]

Compliance within Wisconsin State Standards and Regulations

Wisconsin Admin. Code ch. DHS 89 is intended "to establish standards and procedures for the certification or registration of residential care apartment complexes in order to promote the health and safety of persons residing in and receiving services from those facilities. This chapter is intended to ensure that all residential care apartment complexes provide each tenant with an independent apartment in a setting that is home-like and residential in character; make available personal, supportive and nursing services that are appropriate to the needs, abilities and preferences of individual tenants; and operate in a manner that protects tenants' rights, respects tenant privacy, enhances tenant self-reliance and supports tenant autonomy in decision-making including the right to accept risk." ([Wis. Admin. Code § DHS 89.11](#))

Met Unmet Not Applicable

- The Resident Handbook outlines and confirms the opportunities for each resident to have-"freedom to live as active a lifestyle as desired". To that end, St. Anne's Assisted Living programs offers scheduled group outings, entertainment and activities, worship opportunities, wellness programs, etc.
- Tivoli Terrace offers a home/studio apartment to each resident, encourages, and supports that each resident has the right to times to eat, sleep, wake whom they visit, who visits them and what they choose to engage in. Dining options are offered to allow made to order menus, snack and café options.
- Reviewer was able to meet with a recreational group (knitting and cataloging) of ten (10) residents during the onsite visit. Residents expressed their happiness with the variety of activities, dining options, fun and exciting community events, etc. They just loved "St. Anne's."

The setting ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint, [42 CFR § 441.301(c)(4)(iii)].

Compliance within Wisconsin State Standards and Regulations

Tivoli Terrace is a residential care apartment complex (RCAC). RCACs are independent apartments that offer additional services, if needed. The services provided to tenants are based on the tenant's selection from a menu of services and supports, both in the setting and in the community. A tenant may choose to do most activities independently or have more comprehensive assistance.

State-regulated settings are subject to unannounced licensing visits, both in response to complaints and during regular oversight visits. In addition, when HCBS participants are resident in the setting, waiver program care managers are required to have ongoing contact, including face-to-face visits, at which time any member rights issues would be identified and addressed.

Rights: A tenant has the right "to have privacy in his or her independent apartment and when receiving supportive, personal or nursing services." The tenant has the right "to be free from physical, sexual or emotional abuse, neglect or financial exploitation or misappropriation of property by the facility, its staff or any service provider under contract with the facility" and has the right to be free from coercion. (Statewide Transition Plan, pgs. 85-86; Summarized from Wis. Admin. Code §§ DHS [89.34](#) and [89.36](#))

DHS prohibits the use of restraint or seclusion of waiver participants unless the specific restraint or seclusion intervention has been reviewed and approved by DHS. Use of restraint and/or isolation is monitored by waiver agencies and DHS. Guidelines on restraints and isolation are found at: www.dhs.wisconsin.gov/waivermanual/appndx-r1.pdf and www.dhs.wisconsin.gov/dqa/memos/15-003.pdf (WI Statewide Transition Plan)

Met Unmet Not Applicable

- The Tivoli Terrace and assisted living programs of St. Anne's Resident Rights policy addresses and ensures each of the requirements of 42 CFR § 441.301(c)(4)(iii)- These requirements are confirmed through staff training and updates and clearly comply with all applicable federal, state and local laws regarding abuse/neglect, etc. As part of this policy, each resident is encouraged to sign the residents' rights protocol that ensures the facilities compliance with applicable statutes.
- New employee orientation, employee, and staff orientation checklists include sections on privacy, confidentiality, resident rights, abuse/neglect prevention, mandated reporting requirements and a St. Anne's Assisted Living Code of Ethics.

Individuals are able to have visitors of their choosing at any time. [42 CFR § 441.301(c)(4)(vi)(D)]

Compliance within Wisconsin State Standards and Regulations

"Each independent apartment shall be of adequate size and configuration to permit tenants to carry out, with or without assistance, all the functions necessary for independent living, including... entertaining visitors." (WI Statewide Transition Plan; [Wis. Admin. Code § DHS 89.22](#))

The tenant has the right to receive visitors, meet with groups, or participate in activities of the tenant's choice, to receive and send sealed mail, and to have a private phone installed in his or her independent apartment. (WI Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 89.34](#))

Met Unmet Not Applicable

Resident Handbook/Resident Rights Section confirms the "Right to Private and Unrestricted Communication:"- Each resident has the right to private visitors and private visits as part of a reasonable visitor policy. The handbook asserts that the resident is responsible for guests that visit and that the setting will have defined guest rules. Additionally, family members, friends are encouraged to dine with their friends and participate in activities at St. Anne's.

Individuals have access to food at any time.

Compliance within Wisconsin State Standards and Regulations

A "Residential care apartment complex' consists of independent apartments, each of which has an individual lockable entrance and exit, a kitchen, including a stove, and individual bathroom, sleeping and living areas" ([Wis. Admin. Code § DHS 89.13](#))

Each independent apartment shall have a kitchen that is "a visually and functionally distinct area within the apartment. The refrigerator shall have a freezer compartment. The sink shall have hot and cold running water." (Wis. Admin. Code § DHS 89.22)

Met Unmet Not Applicable

- Every resident at Tivoli Terrace that the reviewer interviewed, express that dining, food, snacks and variety are the most important issues in their daily lives. Each of the assisted living programs including Tivoli Terrace maintains a Resident Council, comments, and complaints about food, etc. can be brought to the council. Small refrigerators are allowed in each of the rooms and there is a community lounge where snacks can be stored.
- Tivoli Terrace provides three meals each day and 24-7 access to snacks and beverages.
- St. Anne's has a coffee and bakery on campus available to residents.

The living unit is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services. The individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under applicable landlord/tenant laws. The State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord/tenant laws. [42 CFR § 441.301(c)(4)(vi)(A)].

Compliance within Wisconsin State Standards and Regulations

A residential care apartment complex shall enter into a mutually agreed-upon written service agreement with each of its tenants. The agreement shall include the services and the charges for any services in the service agreement and any additional services that are available for purchase. The agreement must also include the grounds for any termination of the agreement. (WI Statewide Transition Plan, pg. 88; Summarized from Wis. Admin. Code § [DHS 89.27](#))

Met Unmet Not Applicable

- Provider-submitted documents support compliance of property owner tenant laws that indicate that Tivoli Terrace is responsible and will comply with all requirements of applicable property owner tenant statutes for their local community. Tivoli Terrace, through its Occupancy Agreement in its Resident Handbook confirms the setting will comply with all applicable laws including the Fair Housing Act.
- At the onsite review, sample leases and admission agreements were reviewed and comply in accordance with HCBS. The occupancy agreement confirms that individuals residing at St. Anne's Assisted Living settings occupy their residence under a legally enforceable occupancy agreement and that the individual enjoys the same responsibilities and protections from eviction by statute of their community.

Overcoming Institutional Presumption

The setting demonstrated a meaningful physical distinction between the HCBS setting and the institutional setting, including separate entrances and signage, physical divisions, and differences in décor.

Met Unmet Not Applicable

Documents submitted include blueprints of the RCAC (Tivoli Terrace), the CBRFs and the SNF.

1. Blueprint confirms separate entrances, exits, and signage for the settings on the campus. On site review confirmed that both Mission Court and Providence Court CBRFs are located with apartments on the first four floors. Each floor is individualized and there are separate elevators to the CBRFs. Mission Court and Providence Court's program statement cites "that the settings are located adjacent to St. Anne's SNF but maintain a private entrance and that the separation from the nursing home assures that only residents of similar interests and abilities are in placement together." Each of the floors have a nursing station, dining room and living room. Confirmation of separate signage conducted at the onsite review. The reviewer can confirm that Tivoli Terrace has separate signage from the SNF and the CBRFs. There is a main foyer, which hosts a Bistro and restaurant.
2. Photos submitted for the resident's rooms. Each resident lives in a studio, one bedroom-1 bedroom apartment and are free to decorate, as desired.

The reviewer observed that there was a marked difference between the rooms/apartments at the RCAC and the SNF. Additionally, at the ground level, there are décor distinctions between the CBRFs, RCAC and the SNF. Tivoli Terrace is home like, cozy and inviting as well as the RCAC. SNF is more uniformed and institutionalized.

Each individual has privacy in their sleeping or living unit.

Compliance within Wisconsin State Standards and Regulations

A “residential care apartment ‘complex’ or ‘facility’... consists of independent apartments, each of which has an individual lockable entrance and exit, a kitchen, including a stove, and individual bathroom, sleeping and living areas...” ([Wis. Admin. Code § DHS 89.13](#))

A tenant has the right “to have privacy in his or her independent apartment and when receiving supportive, personal or nursing services.” The tenant has the right “to be free from physical, sexual or emotional abuse, neglect or financial exploitation or misappropriation of property by the facility, its staff or any service provider under contract with the facility” and has the right to be free from coercion. (Summarized from Wis. Admin. Code §§ DHS 89.34 and 89.36)

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance (DQA) surveyors that the setting (DQA, [F-02138](#), HCBS Compliance Review):

- Provides lockable key entry doors on all resident rooms, and individual keys to all residents.
- Has a policy ensuring that staff uses facility keys to enter a resident’s room only under circumstances agreed upon with the resident.

Met Unmet Not Applicable

- During the onsite visit, the reviewer toured three separate apartments and can confirm that residents have private rooms and can enjoy physical and emotional privacy. Each resident has privacy with entrance doors lockable by the individual; with only appropriate staff having, keys to doors and individual do have a choice of roommates, if applicable.
- HCBS lock and privacy policy was submitted for documents review and the HCBS privacy and lock policies are part of the HCBS staff training.

Individual living units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.

Compliance within Wisconsin State Standards and Regulations

Each independent apartment shall have “an individual lockable entrance and exit. A single door may serve as both entrance and exit. Keys to the door to the independent apartment and to the residential care apartment complex shall be supplied to the tenant.” ([Wis. Admin. Code § DHS 89.22](#))

“‘Individual lockable entrance and exit’ means a door that provides access to an independent apartment and is equipped with an individually keyed lock which is operable from both inside and outside the unit and which the tenant can open, close and lock to ensure privacy.” ([Wis. Admin. Code § DHS 89.13](#))

Locks on living unit doors allow the resident to exercise his or her right to privacy and personal choice. Staff in each residential setting should always knock and receive permission prior to entering a resident’s living space. DHS expects the residential setting to have a policy in place to ensure that staff always knock and receive permission prior to entering a resident’s room or personal living space to respect residents’ rights to privacy. Please refer to DHS’ [Frequently Asked Questions \(FAQs\) about Door Locks in Adult Long-Term Care Residential Settings](#) for additional lock-related information.

Met Unmet Not Applicable

- Each resident at Tivoli Terrace has privacy in his/her sleeping unit including a lockable door. Tenant privacy and lock policies were reviewed and locks were observed on all apartment doors in the RCAC setting during the onsite review.
- During the onsite review, resident interviews confirmed that their respective living units have lockable doors.
- Tivoli Terrace provided lock and privacy policies that confirmed that staff always knock and receive permission prior to entering a resident’s apartment; only the resident and the appropriate staff have keys to the living unit; and the written policy confirms that staff are trained as part of the HCBS compliance for this protocol.

Individuals sharing units have a choice of roommates in that setting.

Compliance within Wisconsin State Standards and Regulations

“Multiple occupancy of an independent apartment shall be limited to a spouse or a roommate chosen at the initiative of the tenant.” ([Wis. Admin. Code § DHS 89.22](#))

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance surveyors that residents have choice of roommates (DQA, [F-02138](#), HCBS Compliance Review).

Person-Centered Planning: Family Care Provider Network, I. Access to Providers: “For residential care facilities, evidence of adequate capacity shall include identification of the availability of residential providers offering private rooms, and a process for moving an individual to a private room when one becomes available that is consistent with the member’s preferences.” ([DHS-MCO Contract, Article VIII, I\(6\)d](#))

Met Unmet Not Applicable

All of the apartments at Tivoli Terrace are single occupancy but spouses are permitted to share an apartment.

Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement. [42 CFR § 441.301(c)(4)(vi)(B)(1-3)]

Compliance within Wisconsin State Standards and Regulations

A tenant has the right “to furnish his or her independent apartment and to maintain personal possessions as space permits as long as the tenant does not unreasonably interfere with the other tenants’ choices or endanger the health or safety of the other tenants.” (WI Statewide Transition Plan; [Wis. Admin. Code § DHS 89.34](#))

Met Unmet Not Applicable

- Review of the Resident Handbook and Admission Agreement confirm that each resident can furnish their living units as they so choose. Submitted photos confirmed that each living unit was distinct and furnished by each resident.
- During the onsite review, the reviewer observed that the décor of each of the apartments were distinct from the SNF units and each resident could bring personal furniture and furnishings to their living space. Each of the apartment units also a doorbell, welcome mat and a ledge where a resident can personalize some belongings, photos, etc.

The setting is physically accessible to the individual. [42 CFR § 441.301(c)(4)(vi)(E)]

Compliance within State Standards

“Each independent apartment shall be of adequate size and configuration to permit tenants to carry out, with or without assistance, all the functions necessary for independent living, including sleeping; sitting; dressing; personal hygiene; storing, preparing, serving and eating food; storing clothing and other personal possessions; doing personal correspondence and paperwork; and entertaining visitors.” ([Wis. Admin. Code § DHS 89.22](#))

Met Unmet Not Applicable

The setting is physically accessible.

Operational Distinction

The setting demonstrated meaningful operational distinction between the institution and the community–based setting, such as minimal administrative and financial interconnectedness.

Met Unmet Not Applicable

- Documents submitted include the Financial and Business Office Department Flowchart; Operating budgets for all three of the assisted living settings, Tivoli Terrace, Mission Court and Providence Court; payroll allocation sheets that demonstrate minimal connections between SNF and the CBRFs.

Documents confirm that there is minimal financial and administrative connectedness. Each of the settings have their own administrative staff and resident staff. There is a CEO for the entire campus but the administrative functioning and oversight for the CBRFs are under the Assisted Living Administrator.

- At the onsite review, the state reviewer reviewed organizational charts and staffing schedules and confirmed that there is minimal interconnectedness at the management and administrative levels for the settings. Additionally, the reviewer met with the management staff at Tivoli Terrace and the settings maintains separate Director of Administration.

There is a distinction between staff for the HCBS setting and the institutional setting. Staff working in the HCBS setting receive initial and ongoing training on HCBS settings rule requirements and principles, and person-centered planning.

Met Unmet Not Applicable

- Submitted documents included staff schedules, HCBS training curriculum, orientation curriculum, etc. Documents confirm that all staff in the RCAC and the CBRFs receive HCBS settings training and that there is a written training policy for HCBS.
- Job descriptions and staff files reviewed at the onsite visit and the reviewer confirmed that staff assigned to a specific setting and that the only time there is cross staffing is for a Certified Nursing Assistant that might require training hours in the SNF.
- Six (6) staff were interviewed at the onsite review and each staff verified that they did receive HCBS training and do receive updates each year.

DHS Recommendation

DHS finds that [Tivoli Terrace](#) possesses the required home and community-based characteristics, is not isolating in nature, and overcomes the presumption of having institutional qualities.

Please note that these findings are preliminary only and must receive final approval from CMS.

In accordance with federal requirements, all compliance results will be made public by DHS. The decision will appear on the subsequent upload of facility information to DHS websites, including the [DQA Provider Search webpage](#) and the provider directories available at the [Consumer Guide to Health Care – Finding and Choosing an Assisted Living Facility webpage](#).

Ongoing Compliance

Wisconsin's Division of Quality Assurance (DQA) will ensure through ongoing compliance reviews that [Tivoli Terrace](#) continues to meet the requirements of the HCBS Settings Rule. The DMS Bureau of Assisted Living (BAL) has incorporated the HCBS settings rule into its current assisted living survey process and activities. ([DQA Implementation of Home and Community-Based Services Settings Rule in Residential Assisted Living Facilities](#))

Waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are certified by the Wisconsin Department of Health Services (DHS) and work within the requirements of contracts with DHS. State licensed settings are subject to unannounced licensing visits, both in response to complaints and during regular oversight visits, by the state licensing authority, or by the entity that certified the provider if not regulated by the state. As part of these periodic licensing or certification reviews, the credentialing entity will also review the setting for continued HCBS compliance. Providers will be required to address any HCBS rule deficiencies.

When HCBS participants are resident in the setting, waiver program care managers are required to have ongoing contact, including face-to-face visits, at which time any areas of concern would be identified and addressed. Each participant in a Medicaid home and community-based waiver program is further protected through the state's long-term care ombudsman program, which has regular access to the assisted living setting. [Wisconsin's Board on Aging & Long Term Care](#): The Board on Aging and Long Term Care advocates for the interests of Wisconsin's long-term care consumers, informs those consumers of their rights and

educates the public about health care systems and long-term care. The Board also operates the [Long Term Care Ombudsman](#), and [Volunteer Ombudsman](#) services.

EVIDENTIARY ASSESSMENT AND SUMMARY
Home and Community-Based Services (HCBS) Settings Rule
Heightened Scrutiny Review – 3-4 Bed Adult Family Homes (AFH)

Facility Name Trailview Adult Family Home		Facility Type 3-4 Bed Adult Family Home (AFH)	
Corporate Name (if applicable) Clearview		License/Certification # 0011350	County Dodge
Facility Address 196 Trailview Court	City Juneau	State WI	Zip Code 53039
Primary Contact Name Jessica Streaan	Primary Contact Direct Phone (include area code) 920-386-3231	Primary Contact Email Address jstreaan@co.dodge.wi.us	
Facility Website Address https://www.co.dodge.wi.gov/government/departments-a-d/clearview/clearview-assisted-living			

Reason for Institutional Presumption

- Settings in a publicly or privately operated facility that provides inpatient institutional treatment.
- Settings on the grounds of, or adjacent to, a public institution. Name of institution: [Dodge County Human Services](#)
- Settings with the effect of isolating individuals from the broader community of individuals not receiving HCBS waiver services.

The Centers for Medicare and Medicaid Services' (CMS) HCBS settings rule assumes that certain settings are not home and community-based. If a Wisconsin assisted living facility (setting) meets one of the criteria for institutional presumption as defined above, the DHS Division of Medicaid Services (DMS) conducts a heightened scrutiny review.

DMS believes that [Trailview Adult Family Home](#) has overcome the institutional presumption and meets the criteria of a home and community-based services setting as summarized below.

To reinforce the extent to which Wisconsin's licensing and certification regulations and standards align with and reinforce the HCBS settings rule, the applicable state standard or regulation is included, where applicable, with the compliance review summary below.

Facility Summary

Trailview Adult Family Home (hereafter, Trailview) is a four-bedroom adult family home (AFH). Currently, there are 4 adults supported at Trailview, with 2 of those residents supported through [Family Care](#) Medicaid long-term care funding. Trailview is a residential family home for people who have experienced a traumatic brain injury. Trailview's program is designed to continue support, rehabilitation, training individuals to meet their maximum levels of independence while maintaining close ties to their community. Trailview is part of the Dodge County Human Services campus including a community based residential facility, another 4-bedroom AFH, and a skilled nursing center.

The setting is integrated in and supports full access to the greater community [42 CFR § 441.301(c)(4)(i)].

The community considers the setting a part of their community and does not associate the setting with institutional services.

Compliance within Wisconsin State Standards and Regulations

An adult family home shall be located so that residents can easily get to community activities and supportive services by walking or by means of convenient private or public transportation or the licensee shall ensure that residents receive the assistance necessary to enable them to get to those activities and services. The home shall be located in a residential area, which is typical of residential areas in that community. ([Wis. Admin. Code § DHS 88.05](#))

Met Unmet Not Applicable

- “Residents utilize the community library, supermarket, humane society, beauty shop, banks, and members of local churches. Individuals attend community events that take place during the year in the rural communities of Juneau and surrounding area. Individuals that live at Trailview have the opportunity for vocational experiences at Green Valley Enterprises in Beaver Dam and local businesses. Comments from community members and families show that individuals that live at Trailview are community citizens.”
- “The commander of the American Legion, Horicon Post #157, has said that individuals from Trailview attend their events: fish fries, pancake breakfasts, other annual community events, and are known on a first-name basis.”
- “Managed care teams have made positive comments about how well their members have transitioned into the community from state institutions.

Individuals, to the extent they desire, have opportunities to participate in typical community life activities outside of the setting.

Compliance within Wisconsin State Standards and Regulations

Services shall be directed to the goal of assisting, teaching and supporting the resident to promote his or her health, well-being, self-esteem, independence and quality of life. These goals should include participation in leisure and recreational activities, employment, and other activities. (Summarized from [Wis. Admin. Code § DHS 88.07](#))

An adult family home shall be located so that residents can easily get to community activities and supportive services by walking or by means of convenient private or public transportation or the licensee shall ensure that residents receive the assistance necessary to enable them to get to those activities and services. The home shall be located in a residential area which is typical of residential areas in that community. (Wis. Admin. Code § DHS 88.05)

Met Unmet Not Applicable

- “Individuals go out on a regular basis with family and friends for community and family gatherings and for holidays.” “Individuals will also go with family on... something fun like out to eat, shopping, or even a Brewer’s game.”
- “Families will come to take the individuals out to parties and family gatherings... weddings, showers, baseball games... and other activities that the family would like to go on.”
- Individuals do their shopping at the Piggly Wiggly, Dollar General, Shopko, Walmart, Kohl’s, and other stores in the rural communities surrounding Juneau , obtain haircuts at the local barber and beauty shops, and attend local church services of which they are congregational members (p.3).
- “Community-integrated vocational and social experiences are encouraged for all individuals living at the home.”
- “Individuals that live at Trailview have the opportunity for vocational experiences at Green Valley Enterprises in Beaver Dam and local businesses.”

Activities are individualized or include more than just setting-based group activities.

Compliance within Wisconsin State Standards and Regulations

Each resident must have an individual service plan that is developed in conjunction with the resident. Service plans must include how the provider will enable the resident “to participate in cultural, religious, political, social and intellectual activities within the home and community” and allow for services to be provided by other agencies. (Summarized from [Wis. Admin. Code §§ DHS 88.05 and 88.06](#))

- Clearview Assisted Living/Trailview has an established Policy #8502 on Community Involvement: “Clearview Assisted Living encourages the residents to engage in community living... including making transportation arrangements.”
- “Purpose: To provide activities involving movement about engagement in one’s community, for purposes that include participating in vocational, recreational and social activities in the community with other members of the community.”
- “Residents will be encouraged to assist with planning activities that they would like to attend.”
- “Residents... will be encouraged to make independent choices about activities they would like to attend and would not like to attend.”
- Community members put “on a car/motorcycle show at the assisted living facilities and the Juneau American Legion Post #15 visits those who reside at Trailview.”

The setting supports access to community activities through its own transportation or coordination of transportation options.

Met Unmet Not Applicable

- *Community Involvement Policy* submitted- Trailview encourages the residents to engage in community living, both inside and outside of the facility, to the extent possible, including making transportation arrangements. Residents participate in community activities that interest them as well as addresses the residents’ cognitive, social, and psychological functioning, as well as spiritual needs. Trailview also uses service providers in the community to promote health and well-being.
- Trailview offers transportation to all scheduled and non-scheduled activities as well as medical appointments. Public transportation is also available in the area if a resident would like to utilize a community service. If a resident would like to use public transportation, staff offers training/assistance and documented in the resident’s Individual Service Plan. Public transportation providers are available at the request of the resident. The resident would be responsible for the cost of public transportation.

Individuals, if they choose, have opportunities to seek employment and work in competitive integrated settings.

Compliance within Wisconsin State Standards and Regulations

Services shall be directed to the goal of assisting, teaching and supporting the resident to promote his or her health, well-being, self-esteem, independence and quality of life. These goals should include participation in leisure and recreational activities, employment, and other activities. (Summarized from Wis. Admin. Code § DHS 88.07)

From contract between DHS and specific MCOs:

V. Care Management:

C. Assessment and Member-Centered Planning Process

C.1. Comprehensive Assessment

C.1.(c) Documentation: The comprehensive assessment will include documentation by the IDT staff of:

C.1.(c)(viii) An exploration with the member of the member’s preferences and opportunities for community integration including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community.

C.3. Member-Centered Planning

C.3.(c)(iv)(g) The setting in which the member resides supports integration into 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.

VII. Services

A. General Provisions

1. Comprehensive Service Delivery System

- c. Serve to maintain community connections, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, and that are cost effective.

Addendum I

It is the DHS's "expectation under this contract that benefits will be fully integrated and will afford options that foster opportunities for interaction and integration into 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 while supporting each member's individual outcomes and recognizing each member's preferences."

Met Unmet Not Applicable

- Trailview residents are encouraged to maintain close ties with their community. Person-centered plan submitted for resident of Trailview confirms that the resident attends a vocational training workshop three times/week in the community.
- Per the Assisted Living Administrator, two Trailview residents work in the community.

Individuals are able to control their personal resources.

Compliance within Wisconsin State Standards and Regulations

Residents have the right to manage their own financial affairs, to retain and use personal clothing and effects, and have private visitors. (Summarized from Wis. Admin. Code § DHS 88.10)

Met Unmet Not Applicable

- Residents of Trailview are entitled to access to personal funds and are encouraged to establish a fund at the group home. Fund accessibility is an individual issue for each of the residents and the staff work closely with the resident, resident payee, residential staff to ensure that the individual has responsibilities in managing his/her personal resources.
- All of the residents at Trailview have suffered from a traumatic brain injury and each, to the extent of their abilities, may have some restrictions on accessing personal funds but those restrictions documented in their respective person-centered plans.
- Staff on a daily basis reconcile *Community Group Home Agreement* submitted states "Funds not kept in a financial institution. Personal funds are used for various community activities such as but not limited to shopping, trips, restaurants etc. Personal funds are also used for buying essentials for the Individuals such as clothing and personal care items. Individuals are not required to sign over any employment paychecks to the Assisted Living Community; they will be deposited into a banking account set up by the Individual."

The setting is selected by the individual from among setting options including non-disability specific settings. [42 CFR § 441.301(c)(4)(ii)].

Compliance within Wisconsin State Standards and Regulations

Person-centered planning is supported by conflict-free care management and consultation (for the IRIS self-directed waiver). Options of services, providers, and settings, including non-disability specific settings, are offered to participants in all Wisconsin HCBS programs. (Wisconsin HCBS waivers, waiver-specific contracts, and policy documents)

Wisconsin has protections in place for Medicaid waiver participants which ensure they understand their choices. DHS waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are responsible for discussing choice of service

settings with the waiver participant and family/guardian to locate the most suitable provider setting, including a discussion of living in a non-disability specific setting. In practice, the waiver agencies are complying with this requirement, and documenting and monitoring the choice of settings in the member-centered plan or IRIS support and service plan, as applicable.

In Wisconsin, the choice of setting requirement is not the initial responsibility of the provider setting. Rather the choice of setting takes place through the person-centered planning process at the waiver agency level. Waiver agencies are certified by DHS and work within the requirements of contracts with DHS. Through ongoing monitoring, Wisconsin will ensure that individuals maintain the right to choose where they reside.

Additionally, Wisconsin has protections in place through *Pre-Admission Consultation (PAC)*: <https://www.dhs.wisconsin.gov/adrc/pros/pac.htm>.

“Pre-admission consultation is a service provided by Aging and Disability Resource Centers (ADRCs) to individuals who are in the process of considering or making a decision about the need to move out of his or her home in order to receive the help they need to remain independent and safe. Sometimes people are unaware that there are services and supports that can be provided right in their own home, often making a move unnecessary. Those who want to move into a nursing home or assisted living facility (such as a community based residential facility or residential care apartment complex), can find it difficult to know which facility would be the best for them or a loved one.”

Met Unmet Not Applicable

- “It is the policy of Clearview Assisted Living to promote person-centered care and for residents to be active in the community as required by the Department of Health Services and Home and Community Based Services (“HCBS”). If a modification to the HCBS criteria is warranted, Clearview Assisted Living will need to follow these requirements and the modifications should be documented in the Individual Service Plan (“ISP”).
- A review of person-centered plans ensures that “the informed consent of the individual is included in the ISP.”

The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and resources available for room and board. [42 CFR § 441.301(c)(4)(ii)].

Compliance within Wisconsin State Standards and Regulations

A home's program statement shall describe the number and types of individuals the applicant is willing to accept into the home and whether the home is accessible to individuals with mobility problems. It shall also provide a brief description of the home, its location, the services available, who provides them and community resources available to residents who live within the home. A home shall follow its program statement. If a home makes any change in its program, the home shall revise its program statement and submit it to the licensing agency for approval 30 days before implementing the change. ([Wis. Admin. Code § DHS 88.03](#))

Each resident must have an individual service plan that is developed in conjunction with the resident. Service plans must include how the provider will enable the resident “to participate in cultural, religious, political, social and intellectual activities within the home and community” and allow for services to be provided by other agencies. (Summarized from Wis. Admin. Code §§ DHS 88.05 and 88.06)

Services shall be directed to the goal of assisting, teaching and supporting the resident to promote his or her health, well-being, self-esteem, independence and quality of life. These goals should include participation in leisure and recreational activities, employment, and other activities. (Summarized from Wis. Admin. Code § DHS 88.07)

Met Unmet Not Applicable

- *Resident Rights Policy* and *Resident Rights training* documents submitted highlight the individuality of each person-centered plan.
- Residents at Trailview Group Home are involved in the planning and preparing of all meals. Each of the residents are given rotating tasks and chores related to meal planning including shopping, preparing, etc. Meal planning and task analysis is part of each resident's person-centered plan. Trailview

resident two (2) plan submitted noted, “staff will help resident in the preparation of salads and desserts.” “Staff will work with resident to supervise clean-up after the meal.”

The setting facilitates choice regarding services and supports, and who provides them. Individuals have a choice in selecting their service providers, and are not reliant on services from the institution to the exclusion of other community-based options. Individuals can choose to receive services in the community to the same degree as individuals not receiving Medicaid HCBS. [42 CFR § 441.301(c)(4)(v)]

Compliance within Wisconsin State Standards and Regulations

A home’s program statement shall describe the number and types of individuals the applicant is willing to accept into the home and whether the home is accessible to individuals with mobility problems. It shall also provide a brief description of the home, its location, the services available, who provides them and community resources available to residents who live within the home. A home shall follow its program statement. If a home makes any change in its program, the home shall revise its program statement and submit it to the licensing agency for approval 30 days before implementing the change. ([Wis. Admin. Code § DHS 88.03](#))

The resident of a 3-4 bed AFH has a right “...to exercise complete choice of providers of physical health care, mental health care and pharmaceutical services.” ([Wis. Admin. Code § DHS 88.10](#))

Person-Centered Planning

- Options of services, providers, and settings, including non-disability specific settings, are offered to participants in all Wisconsin HCBS programs. (WI Statewide Transition Plan; Summarized from Wis. HCBS waivers, waiver-specific contracts, and policy documents.)
- Residents have the right to “use the licensed, certified or registered provider of health care and pharmacist of the resident’s choice.” ([Wis. Stat. § 50.09](#))

The resident “... shall have opportunities to make decisions relating to care, activities and other aspects of life in the adult family home. An adult family home shall help any resident who expresses a preference for more independent living to contact any agency needed to arrange for it.” (Summarized from DHS 88.10)

Met Unmet Not Applicable

Example from Medical Services Policy #8507: Assisted Living Group Homes

- “Clearview Assisted Living Community does not provide physician services and does require the individuals to see community providers. Appointments can be made by the individual/family or the Assisted Living Supervisor” (Policy and Procedure Regarding: Medical Services). Clearview provided a list of community doctors that serve the residents.
- Clearview Resident Resources binder is available that provides information on healthcare providers in the community. Clearview residents also have access to the local Mayo clinic and Gundersen Health services.
- Clearview Policy on Medical Services confirms, “Individuals are encouraged to retain their current community physician for continuity of care.

The setting optimizes, but does 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. [42 CFR § 441.301(c)(4)(iv)]

Compliance within Wisconsin State Standards and Regulations

The licensee shall encourage a resident’s autonomy, respect a resident’s need for physical and emotional privacy and take a resident’s preferences, choices and status as an adult into consideration while providing care, supervision and training.

The licensee shall plan activities and services with the residents to accommodate individual resident needs and preferences and shall provide opportunities for each resident to participate in cultural, religious, political, social and intellectual activities within the home and community. A resident may not be compelled to participate in these activities.

The licensee shall allow a resident to participate in all activities that the resident selects unless contrary to the resident's individualized service plan or the home's program statement. ([Wis. Admin. Code § DHS 88.07](#))

The resident "... shall have opportunities to make decisions relating to care, activities and other aspects of life in the adult family home. No curfew, rule or other restrictions on a resident's freedom of choice shall be imposed unless specifically identified in the home's program statement or the resident's individual service plan. An adult family home shall help any resident who expresses a preference for more independent living to contact any agency needed to arrange for it." (Summarized from DHS 88.10)

The resident has the right to "... meet with and participate in social and community activities at the resident's own discretion" and "to participate in religious activities of the resident's choice. No resident may be required to engage in any religious activity." The resident shall be allowed to "have private visitors and have adequate time and private space for visits." (Summarized from DHS 88.10)

Met Unmet Not Applicable

- Review of the *Program Statement and Services Agreement Handbook*, support the right of each resident to enjoy individual choice, autonomy and independence in making choices about their activities, décor, visitors, etc.
- A review of three person-centered plans supported individual choice in activities, hobbies, religious observance, etc. In addition to person-centered plans, each resident has a wellness plan and an activity/recreational plan that assesses and documents interests, activities, involvement, etc.
- Trailview resident three person-centered submitted plan support the resident in attending religious services each week. The resident requires help with transportation to and from services and requires assistance in getting dressed and ready in a timely manner. The resident also likes to go shopping with family members each week.

Individuals have the freedom and support to control their own schedules and activities. [42 CFR § 441.301(c)(4)(vi)(C)]

Compliance within Wisconsin State Standards and Regulations

The licensee shall encourage a resident's autonomy, respect a resident's need for physical and emotional privacy and take a resident's preferences, choices and status as an adult into consideration while providing care, supervision and training.

The licensee shall plan activities and services with the residents to accommodate individual resident needs and preferences and shall provide opportunities for each resident to participate in cultural, religious, political, social and intellectual activities within the home and community. A resident may not be compelled to participate in these activities.

The licensee shall allow a resident to participate in all activities that the resident selects unless contrary to the resident's individualized service plan or the home's program statement. ([Wis. Admin. Code § DHS 88.07](#))

Met Unmet Not Applicable

Assisted Living Policy:

- "Residents will be encouraged to assist with planning activities that they would like to attend. Some examples are as follows, but are not limited to, shopping, religious activities, eating at public restaurants, etc."
- Residents of Trailview Assisted Living will be encouraged to make independent choices about activities they would like to attend and would not like to

attend.

The setting ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint, [42 CFR § 441.301(c)(4)(iii)].

Compliance within Wisconsin State Standards and Regulations

Residents have the right to be “treated with courtesy, respect and dignity by all employees of the facility and other providers of health care and pharmacists with whom the resident comes in contact.”

The licensee shall encourage a resident's autonomy, respect a resident's need for physical and emotional privacy and take a resident's preferences, choices and status as an adult into consideration while providing care, supervision and training.

Residents must be provided with “physical and emotional privacy in treatment, living arrangements, and in caring for personal needs” including, privacy for visits by spouse or domestic partner, or to share a room with a spouse or domestic partner if both are residents for the same facility; privacy concerning health care; confidentiality of health and personal records; and the right to approve or refuse their release to any individual outside the facility.(Summarized from [Wis. Stat. § 50.09](#)).

A resident's bedroom shall provide comfort and privacy, shall be enclosed by full height walls, and shall have a rigid door that the resident can open and close. A resident's bedroom may not be used by anyone else to get to any other part of the home. (Summarized from Wis. Admin. Code § DHS 88.05)

The resident has the right to “have physical and emotional privacy in treatment, living arrangements and in caring for personal needs, including toileting, bathing and dressing.” (Wis. Admin. Code § DHS 88.10)

Met Unmet Not Applicable

Resident Rights Policy and training curriculum:

- *What Are Resident Rights?* The rights and protections given to residents of Assisted Living Facility (ALF) under Federal and state law that help ensure they receive the care and services they need.
- ALF must ensure and protect these rights.
- We, as caregivers, must provide advocacy on behalf of our residents, and ensure such rights are respected and upheld.
- Residents have the right to be free from abuse, neglect, misappropriation and exploitation.
- Residents must be told about their rights.

Individuals are able to have visitors of their choosing at any time. [42 CFR § 441.301(c)(4)(vi)(D)]

Compliance within Wisconsin State Standards and Regulations

Residents have the right to private and unrestricted communications with their family, physician or other medical provider, attorney, and any other person, unless documented as medically contraindicated. The right to private and unrestricted communications includes the right to reasonable access to a telephone for private communications; and the opportunity for private visits. (Summarized from Wis. Stat. § 50.09).

Met Unmet Not Applicable

- Clearview *Service Agreement/Visiting Hours Section* confirms, “Individuals are able to have visitors at their choosing at any time in a private, unsupervised space.” (pg.4)
- Clearview has a sign in/out sheet and does monitor visitors into the home.

Individuals have access to food at any time.

Compliance within Wisconsin State Standards and Regulations

Resident Care: "A licensee shall provide each resident with a food sufficient to meet the resident's nutritional needs and preferences and to maintain the resident's health."

"The licensee shall provide to each resident or ensure that each resident receives 3 nutritious meals each day and snacks that are typical in a family setting."
(Wis. Admin. Code § DHS 88.07)

Met Unmet Not Applicable

As part of the Community Resident's Living Agreement, each resident is entitled to "Food services will provide three meals per day and an evening snack."

The living unit is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services:

- The individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the applicable landlord/tenant laws.
- The State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law. [42 CFR § 441.301(c)(4)(vi)(A)]

Compliance within Wisconsin State Standards and Regulations

The service agreement shall be dated and signed by the licensee and the person being admitted or that person's guardian or designated representative. The service agreement shall specify the parties to the agreement, services to be provided, charges for room, board and services, the terms of payments, the conditions for transfer or discharge, and a statement of resident rights and grievance procedures. (Summarized from Wis. Admin. Code § DHS 88.06)

A licensee may terminate a resident's placement only after giving the resident, the resident's guardian, if any, the resident's service coordinator, the placing agency, if any, and the designated representative, if any, 30 days written notice. The termination of a placement shall be consistent with the service agreement under s. DHS 88.06(2)(c)7. The 30 day notice is not required for an emergency termination necessary to prevent harm to the resident or other household members. (Wis. Admin. Code § DHS 88.08)

Met Unmet Not Applicable

- Each resident of Trailview has a resident rights policy, assisted living agreement that provides information on tenancy, grievance procedures, etc.
- The resident and legal representative, will be involved, as appropriate with the development of the individual service plan and the resident and/or legal representative shall sign the plan acknowledging their involvement in, and understanding and of the agreement of the plan.

Overcoming Institutional Presumption

The setting demonstrated a meaningful physical distinction between the HCBS setting and the institutional setting, including separate entrances and signage, physical divisions, and differences in décor.

Met Unmet Not Applicable

- Photos submitted show a home like atmosphere at Trailview. Common areas as well as the living areas have their own individual color schemes.
- Photo submitted of Clearview signage confirms that Trailview is located at 196 Trailview Court and has its own signage.
- Google map submitted confirms that the group home is in a separate building apart from the SNF.
- Photos submitted show that each of the rooms at Trailview are private, individually decorated, personally furnished each with their own private bathroom.

-
- At the onsite visit, review staff toured the group home, observed the signage, and attested to the home being separate from the SNF.
 - Photos provided show homelike décor, including front entrance and hallway; Kitchen and dining area; Snack bar area; Great room with fireplace and desk area; Door leading to the outside patio.
-

Each individual has privacy in their sleeping or living unit.

Compliance within Wisconsin State Standards and Regulations

Residents must be provided with “physical and emotional privacy in treatment, living arrangements, and in caring for personal needs” including, privacy for visits by spouse or domestic partner, or to share a room with a spouse or domestic partner if both are residents for the same facility; privacy concerning health care; confidentiality of health and personal records; and the right to approve or refuse their release to any individual outside the facility. (Statewide Transition Plan; Summarized from Wis. Stat. § 50.09).

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance surveyors that the setting (DQA, [F-02138](#), HCBS Compliance Review):

- Provides lockable key entry doors on all resident rooms, and individual keys to all residents.
 - Has a policy ensuring that staff uses facility keys to enter a resident’s room only under circumstances agreed upon with the resident.
-

Met Unmet Not Applicable

- Trailview *Lock and Key Policy* submitted that states that each resident is entitled to a key, keyed lock and a key for a family member or legal representative.
 - Before entering a resident’s room, staff members are required to knock and announce themselves.
 - If a resident cannot handle a key or chooses not to have a keyed lock, the person-centered plan is updated.
-

Individual living units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.

Compliance within Wisconsin State Standards and Regulations

Locks on living unit doors allow the resident to exercise his or her right to privacy and personal choice. Staff in each residential setting should always knock and receive permission prior to entering a resident’s living space. DHS expects the residential setting to have a policy in place to ensure that staff always knock and receive permission prior to entering a resident’s room or personal living space to respect residents’ rights to privacy. Please refer to DHS’ [Frequently Asked Questions \(FAQs\) about Door Locks in Adult Long-Term Care Residential Settings](#) for additional lock-related information.

Met Unmet Not Applicable

- Before entering a resident’s room, staff members are required to knock and announce themselves.
 - As part of the Resident’s rights training for staff, training on key policy and procedure makes clear that a staff member needs to protect the privacy of each resident, knock before entering, etc.
-

Individuals sharing units have a choice of roommates in that setting.

Compliance within Wisconsin State Standards and Regulations

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance surveyors that residents have choice of roommates (DQA, [F-02138](#), HCBS Compliance Review): Family Care Provider Network, I. Access to Providers: “For residential care facilities, evidence of adequate capacity shall include identification of the availability of residential providers offering private rooms, and a process for moving an individual to a private room when one becomes available that is consistent with the member’s preferences.” ([DHS-MCO Contract, Article VIII, I\(6\)d](#))

Met Unmet Not Applicable

- Three of Trailview’s living units are single occupancy and one living unit is double occupancy.
- Policy submitted states that there is a procedure in place to change a room or request a change for roommates, etc.
 - The recommendation for a room change will be made jointly between disciplines in collaboration with the resident and legal representative and any other person the resident wishes to include.
 - Prior to the move, the Adult Living Supervisor will seek permission from the resident and/or legal representative with an explanation given for the proposed move. The move may be refused unless there is the presence of an emergent situation.
- Notice should be given at least 24 hours in advanced, both orally and written, unless resident and/or legal representative voice preference to have the room change.

Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement. [42 CFR § 441.301(c)(4)(vi)(B)(1-3)]

Compliance within Wisconsin State Standards and Regulations

The resident shall have the right to “retain and use personal clothing and effects and to retain, as space permits, other personal possessions in a reasonably secure manner.” (Wis. Admin. Code § DHS 88.10)

Met Unmet Not Applicable

- Photos submitted show individual rooms with personal décor and furnishings.
- At the onsite review, staff toured the group home and living units and confirmed that each were personally decorated.
- “Individual may furnish the unit with his or her own furniture, as space permits. Individual shall remove any personal property that violates local, state or federal laws, rules or regulations, infringes on the rights of other Individuals or, in Assisted Living Community's judgment, may be likely to endanger other Individuals or Assisted Living Community employees, agents or representatives, or which may result in higher premiums for the casualty insurance covering Assisted Living Community.

The setting is physically accessible to the individual. [42 CFR § 441.301(c)(4)(vi)(E)]

Compliance within State Standards

“An adult family home shall be physically accessible to all residents of the home. Residents shall be able to easily enter and exit the home, to easily get to their sleeping rooms, a bathroom, the kitchen and all common living areas in the home, and to easily move about in the home. Additional accessibility features shall be provided, if needed to accommodate the physical limitations of a resident or if specified in the resident's individual service plan.” (Wis. Admin. Code § DHS 88.05)

Met Unmet Not Applicable

The setting is physically accessible.

Operational Distinction

The setting demonstrated meaningful operational distinction between the institution and the community–based setting, such as minimal administrative and financial interconnectedness.

Met Unmet Not Applicable

Documents reviewed:

- Trailview’s 2019 Operating Budget – Reflects separate business unit designations for Clearview Community Group Home (#4527) and the nursing home (#4520).
- Clearview Nursing Home 2019 Budget (for comparison)
- The assisted living supervisor determines needs, plans the fiscal year, and creates the budget for long-range initiatives

There is a distinction between staff for the HCBS setting and the institutional setting. Staff working in the HCBS setting receive initial and ongoing training on HCBS settings rule requirements and principles, and person-centered planning.

Met Unmet Not Applicable

- “The Executive Director provides consultation and directives to the assisted living supervisor on regular basis. The assisted living supervisor manages the day-to-day operations of the Assisted Living, providing feedback to the Executive Director as the voice of the staff and residents. All Clearview Community Group Home and Trailview Group Home staff are supervised by the Assisted Living Supervisor.”
- Trailview’s Organizational Chart shows “A distinction that the Trailview Administrator/Executive Director provides supervision and delegates duties to the Assisted Living Supervisor”
- Documents submitted included Clearview/Trailview Group Home and Assisted Living’s training and staffing schedules for the CBRF, SNF and RCAC which clearly indicates that there is distinct staffing for each of the Clearview/Dodge County campus community’s settings.
- Trailview *Assisted Living Orientation* and checklist include a written HCBS training curriculum that confirms the highlights of HCBS settings rule: “The tenant of Clearview Group Home has the right to privacy and autonomy. The tenant must have a setting that is home like and residential in nature. Services are available to each resident including personal, supportive, care and nursing and are available and planned to meet the individual needs of the tenant. The tenant at Clearview occupies a private room/semi private room and can expect to enjoy all levels of privacy and private living and community engagement available for each resident. A comprehensive person centered planning process, assessment is completed prior to admission, and each tenant can expect that the plan will be updated regularly and formally on an annual basis.

DHS Recommendation

DHS finds that [Trailview Adult Family Home](#) possesses the required home and community–based characteristics, is not isolating in nature, and overcomes the presumption of having institutional qualities.

Please note that these findings are preliminary only and must receive final approval from CMS.

In accordance with federal requirements, all compliance results will be made public by DHS. The decision will appear on the subsequent upload of facility information to DHS websites, including the [DQA Provider Search webpage](#) and the provider directories available at the [Consumer Guide to Health Care – Finding and Choosing an Assisted Living Facility webpage](#).

Ongoing Compliance

Wisconsin’s Division of Quality Assurance (DQA) will ensure through ongoing compliance reviews that [Trailview Adult Family Home](#) continues to meet the requirements of the HCBS Settings Rule. The DMS Bureau of Assisted Living (BAL) has incorporated the HCBS settings rule into its current assisted living survey process and activities. ([DQA Implementation of Home and Community-Based Services Settings Rule in Residential Assisted Living Facilities](#))

Waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are certified by the Wisconsin Department of Health Services (DHS) and work within the requirements of contracts with DHS. State licensed settings are subject to unannounced licensing visits, both in response to complaints and during regular oversight visits, by the state licensing authority, or by the entity that certified the

provider if not regulated by the state. As part of these periodic licensing or certification reviews, the credentialing entity will also review the setting for continued HCBS compliance. Providers will be required to address any HCBS rule deficiencies.

When HCBS participants are resident in the setting, waiver program care managers are required to have ongoing contact, including face-to-face visits, at which time any areas of concern would be identified and addressed. Each participant in a Medicaid home and community-based waiver program is further protected through the state's long-term care ombudsman program, which has regular access to the assisted living setting. [Wisconsin's Board on Aging & Long Term Care](#): The Board on Aging and Long Term Care advocates for the interests of Wisconsin's long-term care consumers, informs those consumers of their rights and educates the public about health care systems and long-term care. The Board also operates the [Long Term Care Ombudsman](#), and [Volunteer Ombudsman](#) services.

EVIDENTIARY ASSESSMENT AND SUMMARY
Home and Community-Based Services (HCBS) Settings Rule
Heightened Scrutiny Review – Community-Based Residential Facility (CBRF)

Facility Name Trinity Terrace		Facility Type Community-Based Residential Facility (CBRF)	
Corporate Name (if applicable) St. Joseph Residence Inc.		License/Certification # 410429	County Waupaca
Facility Address 1835 Division St	City New London	State WI	Zip Code 54961
Primary Contact Name Gidget Blank	Primary Contact Direct Phone (include area code) (920) 982-5354	Primary Contact Email Address gblank@sjrcare.org	
Facility Website Address https://stjosephresidence.com/assisted-living/trinity-terrace/			

Reason for Institutional Presumption

- Settings in a publicly or privately operated facility that provides inpatient institutional treatment. [St. Joseph Residence](#)
- Settings on the grounds of, or adjacent to, a public institution. Name of institution: [Click or tap here to enter text.](#)
- Settings with the effect of isolating individuals from the broader community of individuals not receiving HCBS waiver services.

The Centers for Medicare and Medicaid Services' (CMS) HCBS settings rule assumes that certain settings are not home and community-based. If a Wisconsin assisted living facility (setting) meets one of the criteria for institutional presumption as defined above, the DHS Division of Medicaid Services (DMS) conducts a heightened scrutiny review.

DMS believes that [Trinity Terrace](#) has overcome the institutional presumption and meets the criteria of a home and community-based services setting as summarized below.

To reinforce the extent to which Wisconsin's licensing and certification regulations and standards align with and reinforce the HCBS settings rule, the applicable state standard or regulation is included, where applicable, with the compliance review summary below.

Facility Summary

New London, population 7,000, is located mostly in Waupaca County, Wisconsin, 20 miles from the Fox Valley and 40 miles from Green Bay, cultural and educational centers of northeast Wisconsin. Established in 1851, New London is on the Wolf River, famous for sturgeon fishing and several public areas for viewing the spring spawn run for this fish, average life span 50-60 years, but sturgeon can live past 100 years. New London is also a popular destination for river tubing, canoeing, and camping. The city becomes famous for one week in March every year when the name is changed to New Dublin and everyone becomes Irish so they can participate in the annual St. Patrick day festivities. The Grand Parade typically has an extensive lineup of bagpipe bands, marching bands,

festive clowns, specialty units, clans, an Irish wake parody, and 125 or more business floats. Also in New London, the Mosquito Hill Nature Center, bordering the Wolf River, provides scenic views and in July and August the center's unique Butterfly House features hundreds of live Wisconsin butterflies in a large screened enclosure filled with native plants. Health care and care for the elderly dates back to 1929 when the Religious Hospitallers of St. Joseph, an order of Catholic Sisters in Canada, were invited to operate the 13-bed hospital. Over the years the hospital grew and eventually, in 1967, 38 patients were transferred to the St. Joseph Residence nursing home. In 1988 Marian Heights opened as an independent living apartment facility, now 26 units, and in 1995, Trinity Terrace opened as an assisted living CBRF, licensed for 32 beds. St. Joseph Residence is a not-for-profit corporation owned and operated by Catholic Health International.

The setting is integrated in and supports full access to the greater community [42 CFR § 441.301(c)(4)(i)].

The community considers the setting a part of their community and does not associate the setting with institutional services.

Met Unmet Not Applicable

The St. Joseph campus has been part of the city of New London since the mid-1960s. Bordering a residential neighborhood and across from several large manufacturing businesses, local townspeople come in to visit friends and family who chose the St Joseph Residence campus to call home. The tenants who live in the Marian Heights independent living apartments and Trinity Terrace CBRF are out and about in the community as they choose. Residents, typically from the city of New London and who have lived there for many years, choose to receive their long term care without having to leave their home community.

Area businesses, churches, and organizations continue to serve people regardless of where they live, so there is no distinction of St. Joseph campus residents. An example of community response to the multi-decades presence of St Joseph Residence is from 2004 when the old vacated Washington High School building was extensively remodeled by St. Joseph Residence Inc. to become The Chatham Apartments at The Washington Center, a 33-apartment assisted living RCAC located on a separate campus. One of the fundraising events was to sell some of the old schools bricks, which were happily bought by alumna from the high school. Strongly affiliated with the larger campus housing Trinity Terrace, today the Washington Center houses the local senior center, senior nutrition program, Meals on Wheels, an activity room and a gymnasium. The Trinity Terrace resident and family handbook discusses "supporting you to maintain family and social connections and continued participation in community activities as you desire."

Individuals, to the extent they desire, have opportunities to participate in typical community life activities outside of the setting.

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning: The plan must be based on an assessment that addresses the person's "capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known" and "social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs." (Summarized from [Wis. Admin. Code § DHS 83.35](#))

Program Services: Community activities. The CBRF shall provide information and assistance to facilitate participation in personal and community activities. The CBRF shall develop, update and make available to all residents, monthly schedules and notices of community activities, including costs. ([Wis. Admin. Code § DHS 83.38\(1\)\(d\)](#))

Family and social contacts: The CBRF shall encourage and assist residents in maintaining family and social contacts. (Wis. Admin. Code § DHS 83.38(1)(e))

Met Unmet Not Applicable

- The Trinity Terrace *Resident and Family Handbook* states "Residents are encouraged to continue participation in their community and family functions. Residents are free to come and go as they please. We request you notify the staff of any special instructions, such as needed medications or supplies, for

extended leaves.” Further, under “Community Connections & Events: Community events and programs are encouraged and we wish for you to remain connected to prior groups, clubs, church groups, and routines as much as you desire. We also have a community bulletin board available for you and your family to access information regarding community events. Please feel free to post any events in the community that you feel others may enjoy.”

- Trinity Terrace residents are notified of community events by postings on the bulletin board and through the New London Chamber of Commerce twice-monthly digital newsletter. Some favorites are church luncheons, chamber events and school performance events. One of the onsite activity calendar items is a reading group to read “The Local Loop, ” enabling residents to remain connected to our community by hearing what local business are doing, events that are happening, and highlights of positive things happening in our community.” A printed copy is also available in the sign-out book. The handbook also states, “We encourage you to continue to attend your church if you desire.”

Activities are individualized or include more than just setting-based group activities.

Met Unmet Not Applicable

The Trinity Terrace resident and family handbook states that from time to time, “we enjoy outings outside the community, or ordering lunch or dinner in. Some outing activities may have additional charges (optional participation).” Residents are informed about community activities and may come and go as they please to enjoy community activities of their choice. Residents can go out with family and friends, or on their own, if they choose. Favorite activities are church luncheons, chamber events and school performance events. The local Lions club provides tickets to the “Kids from Wisconsin” performance and the New London Irish club invites residents to the local Irish celebration festivities.

The setting supports access to community activities through its own transportation or coordination of transportation options.

Met Unmet Not Applicable

Trinity Terrace residents have several transportation choices. The resident and family handbook states “Transportation (medical) is not typically covered by Medicare/Insurance. Most transportation must be paid for privately by the resident, and most providers require payment prior to transport.” Residents or family can arrange for transportation for medical appointments or ask the Resident Service Director to assist. Many residents have their friends or family members take them to appointments, shopping, family gatherings, and out for other activities. Parking spots are provided for residents who choose to bring their own vehicle and the New London Senior bus transports residents within the city limits, picking up and dropping off at the main entrance to Trinity Terrace. Residents are given information about transportation options: New London Senior Center Bus (donation-based, runs in New London city limits), St. Joseph Residence Van Transport Program, Metro Transport, and Koeppen’s Medical Transport.

Individuals, if they choose, have opportunities to seek employment and work in competitive integrated settings.

Met Unmet Not Applicable

Trinity Terrace residents may be employed and/or volunteer in the community if they wish, though to date no one has expressed an interest in being employed. Residents who are supported with waiver funds are asked at each member centered plan review about employment and education outcomes. The Trinity Terrace resident and family handbook states under the section activities and leisure programs “A list of volunteer and employment resources will be posted on our community board to notify residents of available opportunities...”

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning:

The plan must be based on an assessment that addresses the person’s “capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known” and “social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs.” ([WI Statewide Transition Plan](#); Summarized from [Wis. Admin. Code § DHS 83.35](#)).

From contract between DHS and specific MCOs:

V. Care Management:

C. Assessment and Member-Centered Planning Process

C.1. Comprehensive Assessment

C.1.(c) Documentation: The comprehensive assessment will include documentation by the IDT staff of:

C.1.(c)(viii) An exploration with the member of the member's preferences and opportunities for community integration including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community.

C.3. Member-Centered Planning

C.3.(c)(iv)(g) The setting in which the member resides supports integration into 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.

VII. Services

A. General Provisions

1. Comprehensive Service Delivery System

c. Serve to maintain community connections, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, and that are cost effective.

Addendum I

It is the DHS's "expectation under this contract that benefits will be fully integrated and will afford options that foster opportunities for interaction and integration into 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 while supporting each member's individual outcomes and recognizing each member's preferences."

Met Unmet Not Applicable

Trinity Terrace residents who are supported with waiver funding are involved in the development and ongoing review of member centered plans. Several sections of the MCP focus on outcomes chosen by the member, including where they want to live, employment and educations preferences if any, and if they chose to access and participate in the community. The facility's ISP process, also including the resident as an integral member of the team, includes sections on family contacts, likes and dislikes, social and leisure needs/preferences. Resident ISPs states, "resident has one or more community contacts... independently goes shopping... family provides transportation" and "transportation for appointments – "family, or will help arrange and under current activity interest "volunteering (as a Ladies Aide." Another "does not want to change living arrangements" and under community organizations and clubs that you attend on a regular basis "Sturgeon Trail and Heritage Village."

Individuals are able to control their personal resources.

Compliance within Wisconsin State Standards and Regulations

Every resident in a community-based residential facility has the right to "manage the resident's own financial affairs, unless the resident delegates, in writing, such responsibility to the facility and the facility accepts the responsibility or unless the resident delegates to someone else of the resident's choosing and that person accepts the responsibility." (Statewide Transition Plan; [Wis. Stat. § 50.09](#)).

Met Unmet Not Applicable

The Trinity Terrace resident trust fund accounts policy states "St. Joseph Residence Inc. will manage the personal funds of residents who requests the organization to do so. There is no obligation or requirement for residents to deposit his/her funds with the facility." For those who choose for the facility to

hold their funds, the resident and family handbook states, “During business hours, residents can conduct resident trust business at the St. Joseph Residence reception desk Monday – Friday from 8:00 a.m. – 4:00 p.m. On the weekends, or after business hours, residents can request funds from any staff member. We keep a limited amount of petty cash on the unit, but have the ability to access your funds quickly if you find you need a larger amount of cash than is available on the unit.” Residents who live at Trinity Terrace can come and go as they wish and may continue to use the financial institutions of their choice.

The setting is selected by the individual from among setting options including non-disability specific settings. [42 CFR § 441.301(c)(4)(ii)].

Compliance within Wisconsin State Standards and Regulations

Wisconsin has protections in place for Medicaid waiver participants which ensure they understand their choices. DHS waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are responsible for discussing choice of service settings with the waiver participant and family/guardian to locate the most suitable provider setting, including a discussion of living in a non-disability specific setting. In practice, the waiver agencies are complying with this requirement, and documenting and monitoring the choice of settings in the member-centered plan or IRIS support and service plan, as applicable.

In Wisconsin, the choice of setting requirement is not the initial responsibility of the provider setting. Rather the choice of setting takes place through the person-centered planning process at the waiver agency level. Waiver agencies are certified by DHS and work within the requirements of contracts with DHS. Through ongoing monitoring, Wisconsin will ensure that individuals maintain the right to choose where they reside.

Additionally, Wisconsin has protections in place through *Pre-Admission Consultation (PAC)*: <https://www.dhs.wisconsin.gov/adrc/pros/pac.htm>.

“Pre-admission consultation is a service provided by Aging and Disability Resource Centers (ADRCs) to individuals who are in the process of considering or making a decision about the need to move out of his or her home in order to receive the help they need to remain independent and safe. Sometimes people are unaware that there are services and supports that can be provided right in their own home, often making a move unnecessary. Those who want to move into a nursing home or assisted living facility (such as a community based residential facility or residential care apartment complex), can find it difficult to know which facility would be the best for them or a loved one.”

Met Unmet Not Applicable

Trinity Terrace residents who are supported with waiver funding are involved in the development and ongoing review of member centered plans. Several sections of the MCP focus on outcomes chosen by the member, including where they want to live, employment and education preferences if any, and if they chose to access and participate in the community. The facility’s ISP process, also including the resident as an integral member of the team, includes sections on family contacts, likes and dislikes, social and leisure needs/preferences. Several ISPs were reviewed and one ISP states, “resident has one or more community contacts... independently goes shopping... family provides transportation” and “transportation for appointments – “family, or will help arrange and under current activity interest “volunteering (as a) Ladies Aide.” Another “does not want to change living arrangements” and under community organizations and clubs that you attend on a regular basis “Sturgeon Trail and Heritage Village.” Now, 1/2021, no residents have a legal guardian and according to the administrator, all residents are admitted to Trinity Terrace by their own choice. Some were in the SNF first, before they chose to live in the less restrictive environment.

The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and resources available for room and board. [42 CFR § 441.301(c)(4)(ii)].

Compliance within Wisconsin State Standards and Regulations

“COMPREHENSIVE INDIVIDUAL SERVICE PLAN Individual service plan review. Annually or when there is a change in a resident's needs, abilities or physical or mental condition, the individual service plan shall be reviewed and revised based on the assessment under sub. (1). All reviews of the individual service plan shall include input from the resident or legal representative, case manager, resident care staff, and other service providers as appropriate.” ([Wis. Admin. Code § DHS 83.35 \(1\)\(d\)](#))

Met Unmet Not Applicable

- *Resident and Family Handbook*: At Trinity Terrace “Individualized Service Plans (ISP): Each resident is encouraged to participate in creating an
- ISP so our caregivers know your preferences and how you would like your care to be delivered. Our person-centered assessments and care plans will identify your strengths, weaknesses, physical, psychosocial, and spiritual needs, and will identify your personal interests, preferences, goals, and expectations. As your care or preferences change we will work together to update your ISP to reflect your needs and wishes. ISP policy is attached for your reference.” Residents who are supported with waiver funds participate in the initial and regularly scheduled member centered plan, which includes discussions of where the member chooses to live and other preferences.
- Trinity Terrace has a policy describing the ISPs “It is the policy of the community to create an individualized service plan (ISP) for each resident that is person centered, includes resident involvement, identifies the resident’s strengths, weaknesses, physical. Psychological and spiritual needs, and incorporates the resident’s personal interests, preferences, goals, and expectations.”

The setting facilitates choice regarding services and supports, and who provides them. Individuals have a choice in selecting their service providers, and are not reliant on services from the institution to the exclusion of other community-based options. Individuals can choose to receive services in the community to the same degree as individuals not receiving Medicaid HCBS. [42 CFR § 441.301(c)(4)(v)]

Compliance within Wisconsin State Standards and Regulations

Before or at the time of admission, the CBRF shall provide written information regarding services available and the charges for those services to each resident or the resident's legal representative. This information shall include any charges for services not covered by the daily or monthly rate (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.29](#)).

Person-Centered Planning

- “Options of services, providers, and settings, including non-disability specific settings, are offered to participants in all Wisconsin HCBS programs.” (WI Statewide Transition Plan; Summarized from Wis. HCBS waivers, waiver-specific contracts, and policy documents.)
- Residents have the right to “use the licensed, certified or registered provider of health care and pharmacist of the resident’s choice.” ([Wis. Stat. § 50.09](#))

Met Unmet Not Applicable

- Trinity Terrace residents have a choice of medical providers and other services providers. The assisted living ancillary services election form requests contact information for the primary physician and other providers such as psychiatry, eye care, physical therapy, etc. *The Resident and Family Handbook* states “If you, or your family members, schedule appointments with dentists, eye doctors or other doctors, please inform the staff ahead of time of the date and time of your appointment and if you need assistance arranging transportation. This allows us to prepare information the doctor may need concerning medications, vitals, labs, etc. that they may want to review during your appointment. It also will allow the nurse to follow up on the results of your appointment. Any changes resulting from the appointment should be given to the staff upon your return to ensure we update your plan of care with any changes in medications and/or treatments. At your request, our staff will gladly assist you in scheduling medical appointments.”

- The *Resident and Family Handbook* also discusses non-medical services and states that residents “can continue to go out for beautician and barber services or may use the services of the beauticians and barbers who are scheduled at the facility, or they may have the barber or stylist of their choice use the beauty salon onsite, scheduling the beauty shop for their personal use.” Other resident information states that residents are required to have a local physician whom can easily be reached, and is willing to be responsible for issuing orders for medications, diet, treatments, and services affecting the Resident’s care. At minimum, an annual physician visit is required.

The setting optimizes, but does 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. [42 CFR § 441.301(c)(4)(iv)]

Compliance within Wisconsin State Standards and Regulations

Rights: Licensees must protect the civil rights of residents. Residents have the right to make decision relating to care, activities, daily routines, and other aspects of life that enhance the resident’s self-reliance and support the resident’s autonomy and decision-making. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.32](#)).

Person-Centered Planning: The plan must be based on an assessment that addresses the person’s capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known, and social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts, and vocational needs. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.35](#)).

“The CBRF shall teach residents the necessary skills to achieve and maintain the resident’s highest level of functioning.” The CBRF shall provide or arrange services adequate to meet the needs of the residents including providing leisure time activities, facilitating participation in community activities, and encouraging and assisting residents in maintaining family and social contacts. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.38](#)).

Rights: Residents have the right to make decisions relating to care, activities, daily routines, and other aspects of life that enhance the resident’s self-reliance and support the resident’s autonomy and decision making, and have the least restrictive conditions necessary to achieve the purposes of the resident’s admission. The CBRF may not impose a curfew, rule, or other restriction on a resident’s freedom of choice. (Statewide Transition Plan; Summarized from Wis. Admin. Code § DHS 83.32).

Met Unmet Not Applicable

Individuals apply to live at Trinity Terrace based on their need for supportive care in an assisted living setting. Residents are encouraged to continue participation in their community as they chose with groups, organizations and family functions. Residents are free to come and go as they please and to have visitors at any time. A variety of onsite activities are available if the resident chooses to participate. Several transportation options are available through the facility and the city, and residents may have their own vehicle on site if they wish. Residents can furnish and decorate their living unit with personal items and can chose their daily schedule and activity.

Individuals have the freedom and support to control their own schedules and activities. [42 CFR § 441.301(c)(4)(vi)(C)]

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning: The plan must be based on an assessment that addresses the person’s “capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known” and “social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs.” (Statewide Transition Plan, pg. 72; Summarized from Wis. Admin. Code § DHS 83.35) Rights: Licensees must protect the civil rights of residents. Residents have the right to make decision relating to care, activities, daily routines, and other aspects of life that enhance the resident’s self-reliance and support the resident’s autonomy and decision-making. (Summarized from Wis. Admin. Code § DHS 83.32)

Met Unmet Not Applicable

Trinity Terrace residents are encouraged to continue participation in their community and family functions. The resident handbook states “residents are free to come and go as they please. We request you notify the staff of any special instructions, such as needed medications or supplies, for extended leaves.” Residents may leave with family and friends, or on their using several transportation options or their own vehicle. Residents are free to come and go as they please and to have visitors at any time. A variety of onsite activities are available if the resident chooses to participate. Several transportation options are available through the facility and the city, and residents may have their own vehicle on site if they wish. Residents can furnish and decorate their living unit with personal items and can chose their daily schedule and activity.

The setting ensures an individual’s rights of privacy, dignity and respect, and freedom form coercion and restraint, [42 CFR § 441.301(c)(4)(iii)].

Compliance within Wisconsin State Standards and Regulations

Rights: Residents have the right to be “treated with courtesy, respect and dignity by all employees of the facility and other providers of health care and pharmacists with whom the resident comes in contact.” ([Statewide Transition Plan](#), pg. 72; Summarized from [Wis. Stat. § 50.09](#)).

Residents must be provided with “physical and emotional privacy in treatment, living arrangements, and in caring for personal needs” including, privacy for visits by spouse or domestic partner, or to share a room with a spouse or domestic partner if both are residents for the same facility; privacy concerning health care; confidentiality of health and personal records; and the right to approve or refuse their release to any individual outside the facility. (Statewide Transition Plan, pg. 72; Summarized from Wis. Stat. § 50.09).

“Any form of coercion to discourage or prevent a resident or the resident’s legal representative from exercising any of the rights under this subchapter is prohibited. Any form of retaliation against a resident or the resident’s legal representative for exercising any of the rights in this subchapter, or against an employee or any other person who assists a resident or the resident’s legal representative in the exercise of any of the resident rights in this subchapter, is prohibited.” (Statewide Transition Plan, pg. 72; Wis. [Admin. Code § DHS 83.32](#)).

In addition, each resident shall have all of the following rights: freedom from mistreatment; freedom from seclusion; freedom from chemical restraint; and freedom from physical restraints, except upon prior review and approval by DHS upon written authorization from the resident’s primary physician or advanced practice nurse prescriber. DHS may place conditions on the use of a restraint to protect the health, safety, welfare, and rights of the resident. (Statewide Transition Plan; Summarized from Wis. Admin. Code § DHS 83.32).

Met Unmet Not Applicable

The Trinity Terrace resident rights document includes this section on “Self-determination: Residents have the right to participate in the care planning process and to make decisions relating to care, activities, self-administration of medication, daily routines and other aspects of life which enhance the resident’s self-reliance, independence, supports what is important to them.” And “Quality of Life & Dignity: Residents have the right to be cared for in a manner and environment that promotes maintenance or enhancement of each Resident’s quality of life, with dignity and respect, recognizing each Resident’s uniqueness, providing reasonable accommodations for their needs.” Trinity Terrace offers private living units with a half-bath and several double units if residents chose to live together. All units have door locks and residents have their own key.

Individuals are able to have visitors of their choosing at any time. [42 CFR § 441.301(c)(4)(vi)(D)]

Compliance within Wisconsin State Standards and Regulations

Rights: Residents have the right to private and unrestricted communications with their family, physician or other medical provider, attorney, and any other person, unless documented as medically contraindicated. The right to private and unrestricted communications includes the right to reasonable access to a telephone for private communications; and the opportunity for private visits. (WI Statewide Transition Plan; Summarized from Wis. Stat. § 50.09).

Met Unmet Not Applicable

From the resident handbook, “We recognize our Resident’s need to maintain contact with friends and family. We have an open door visiting policy and provide 24-hour access to individuals whom have the consent of the resident to visit. We do not have specific visiting hours, but we ask that you be considerate of other residents.” Residents may have visitors purchase a meal ticket and join them for a meal and families/groups can reserve a lounge area for private gatherings. There also is a visitation policy for Trinity Terrace CBRF with more specific information including that family pets may visit and residents can deny visitation to individuals they choose not to meet with.

Individuals have access to food at any time.

Compliance within Wisconsin State Standards and Regulations

The CBRF must provide each resident with palatable food that meets the recommended dietary allowance based on current guidelines, including at least three meals a day and a snack in the evening, or more often based on the resident’s dietary needs. If a resident is away during meal time, the CBRF shall offer food to the resident on the resident’s return. The CBRF shall make reasonable adjustments to the menu for individual resident likes, habits, customs, condition, and appetites. (Summarized from Wis. Admin. Code § DHS 83.41).

Met Unmet Not Applicable

Trinity Terrace residents are provided three meals each day and snacks are available at any time. Trinity Terrace has a policy for food brought in by family and visitors and a policy for resident refrigerators, so that food is kept safe. The facility provides a thermometer for food safety to residents who have a refrigerator in their living unit and makes available a refrigerator and freezer in each wing where residents may store personal food. Friends and family are welcome to join in on meals. And if residents do not leave the facility for holiday meals, they are invited to invite one family member or friend to join them free of charge.

The living unit is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services:

- The individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the applicable landlord/tenant laws.
- The State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction’s landlord tenant law. [42 CFR § 441.301(c)(4)(vi)(A)]

Compliance within Wisconsin State Standards and Regulations

“Each resident shall have a written agreement that is signed by and provided to each party. The agreement includes a description of the space to be provided to the resident, the agreed upon rate, a statement of the resident’s rights and the terms of termination, including timeframes. The agreement is updated annually.” ([WI Statewide Transition Plan](#), pg. 77; [Wis. Admin. Code § DHS 83.29](#)).

The agreement must include terms for resident notification to the CBRF of voluntary discharge, and reasons and notice requirements for involuntary discharge or transfer, including transfers within the CBRF. (Summarized from [Wis. Admin. Code § DHS 83.31](#)).

Met Unmet Not Applicable

The Trinity Terrace admission and residence agreement section 9 delineates the “terms and termination of residency agreement,” providing for 30 day notice on the part of the resident to terminate the agreement. Unless there are emergency or health related issues, the facility also is required to give 30 day notice and to provide information on grievance procedures. From the Trinity Terrace resident rights document: “Transfers & Discharges: This facility recognizes, and will honor Resident’s right to remain in its care. The facility has established policies and practices regarding transfer, discharge, and the provision of services for all residents regardless of source of payment.”

Overcoming Institutional Presumption

The setting demonstrated a meaningful physical distinction between the HCBS setting and the institutional setting, including separate entrances and signage, physical divisions, and differences in décor.

Met Unmet Not Applicable

As of January 2021, Trinity Terrace and St Joseph Residence are planning new outside signage. Trinity Terrace has a separate main entrance from the SNF main entrance, separate parking areas, and a separate address. A fire door and access only by staff separates the CBRF from the SNF. Trinity Terrace residents have their own furniture and personal items in their living unit, including small refrigerators if they wish. Décor in common areas of the CBRF is different from the SNF including flooring.

Each individual has privacy in their sleeping or living unit.

Compliance within Wisconsin State Standards and Regulations

Residents must be provided with “physical and emotional privacy in treatment, living arrangements, and in caring for personal needs” including, privacy for visits by spouse or domestic partner, or to share a room with a spouse or domestic partner if both are residents for the same facility; privacy concerning health care; confidentiality of health and personal records; and the right to approve or refuse their release to any individual outside the facility. (Statewide Transition Plan; Summarized from Wis. Stat. § 50.09).

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance surveyors that the setting (DQA, [F-02138](#), HCBS Compliance Review):

- Provides lockable key entry doors on all resident rooms, and individual keys to all residents.
- Has a policy ensuring that staff uses facility keys to enter a resident’s room only under circumstances agreed upon with the resident.

Met Unmet Not Applicable

Trinity Terrace residents have private units with locks on their door and a private half bath. Some units may be double units if residents wish to have a roommate or share the space with their spouse or someone else. The visitation policy requires that visitors step out of the room when privacy is needed for personal care or other private matters. If a resident chooses not have a key, they can still lock their door and request staff to open it when they return.

Individual living units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.

Compliance within Wisconsin State Standards and Regulations

Locks on living unit doors allow the resident to exercise his or her right to privacy and personal choice. Staff in each residential setting should always knock and receive permission prior to entering a resident’s living space. DHS expects the residential setting to have a policy in place to ensure that staff always knock and receive permission prior to entering a resident’s room or personal living space to respect residents’ rights to privacy. Please refer to DHS’ [Frequently Asked Questions \(FAQs\) about Door Locks in Adult Long-Term Care Residential Settings](#) for additional lock-related information.

Met Unmet Not Applicable

Trinity Terrace residents have living units with lockable doors. Although residents have the right to choose not to lock their doors, this allows residents to exercise his or her right to privacy and personal choice to secure their living unit. Upon admission, residents will be offered a key for the entrance door to their living unit. Residents are not required to accept a key. They may still lock their door at any time to safeguard their belongings, and have staff assist them in unlocking their door when needed. The lock policy states that staff are trained to respect residents’ rights to privacy, and to knock and receive permission, prior to entering a resident’s living space. The resident caregiver who is responsible for passing medication holds the keys with a master key for each lock. The staff will only use the master key to enter a residents room upon resident’s request, if the resident’s call light has been activated by the resident, or in the event the

caregiver has concerns the resident could be injured, in danger, or in need of assistance or medical intervention, or other situations agreed upon by the resident and the facility.

Individuals sharing units have a choice of roommates in that setting.

Compliance within Wisconsin State Standards and Regulations

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance surveyors that residents have choice of roommates (DQA, [F-02138](#), HCBS Compliance Review):

Person-Centered Planning: Family Care Provider Network, I. Access to Providers: “For residential care facilities, evidence of adequate capacity shall include identification of the availability of residential providers offering private rooms, and a process for moving an individual to a private room when one becomes available that is consistent with the member’s preferences.” ([DHS-MCO Contract, Article VIII, I\(6\)d](#))

Met Unmet Not Applicable

The Trinity Terrace resident rights and resident handbook states “Choice of Roommate: Residents have the freedom to their choice of roommate, if their accommodation meets the regulatory guidelines for double occupancy, the potential roommate meets admission requirements, and the choice of roommate will cause no harm to the resident.”

Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement. [42 CFR § 441.301(c)(4)(vi)(B)(1-3)]

Compliance within Wisconsin State Standards and Regulations

Met Unmet Not Applicable

Trinity Terrace residents bring their own furnishings, beds, linens, room decorations and other personal items as they wish and the facility encourages residents and their families to make their living unit their own. This is stated in the resident handbook, administration’s comments to the checklist, and is confirmed by photos, the facility website and brochures.

The setting is physically accessible to the individual. [42 CFR § 441.301(c)(4)(vi)(E)]

Compliance within Wisconsin State Standards and Regulations

Met Unmet Not Applicable

Trinity Terrace was built in 1995 and is physically accessible.

Operational Distinction

The setting demonstrated meaningful operational distinction between the institution and the community-based setting, such as minimal administrative and financial interconnectedness.

Met Unmet Not Applicable

Trinity Terrace budget and expenses are separate for the CBRF from the SNF and the independent apartments. The organizational charts show that the executive director is the CEO for the entire campus but Trinity Terrace is managed day to day by a full time onsite resident service director and an onsite RN 20-30 hours/week. The administrator prepares the budget for the entire company, however, each facility is budgeted with individual census, revenue, and expense expectations. The financial system can report separately for each facility.

There is a distinction between staff for the HCBS setting and the institutional setting. Staff working in the HCBS setting receive initial and ongoing training on HCBS settings rule requirements and principles, and person-centered planning.

Met Unmet Not Applicable

Trinity Terrace CBRF staff are trained in resident rights, resident grievance procedures, privacy and the door lock policy, and the ISP policy. Ongoing training is completed annually or more often as needed, and monthly staff meetings are held at which resident issues and policies are discussed. Staff are hired separately for Trinity Terrace though some certified nursing assistants may be assigned as needed. Staff who work in both facilities are cross-trained.

DHS Recommendation

DHS finds that [Trinity Terrace](#) possesses the required home and community-based characteristics, is not isolating in nature, and overcomes the presumption of having institutional qualities.

Please note that these findings are preliminary only and must receive final approval from CMS.

In accordance with federal requirements, all compliance results will be made public by DHS. The decision will appear on the subsequent upload of facility information to DHS websites, including the [DQA Provider Search webpage](#) and the provider directories available at the [Consumer Guide to Health Care – Finding and Choosing an Assisted Living Facility webpage](#).

Ongoing Compliance

Wisconsin's Division of Quality Assurance (DQA) will ensure through ongoing compliance reviews that [Trinity Terrace](#) continues to meet the requirements of the HCBS Settings Rule. The DMS Bureau of Assisted Living (BAL) has incorporated the HCBS settings rule into its current assisted living survey process and activities. ([DQA Implementation of Home and Community-Based Services Settings Rule in Residential Assisted Living Facilities](#))

Waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are certified by the Wisconsin Department of Health Services (DHS) and work within the requirements of contracts with DHS. State licensed settings are subject to unannounced licensing visits, both in response to complaints and during regular oversight visits, by the state licensing authority, or by the entity that certified the provider if not regulated by the state. As part of these periodic licensing or certification reviews, the credentialing entity will also review the setting for continued HCBS compliance. Providers will be required to address any HCBS rule deficiencies.

When HCBS participants are resident in the setting, waiver program care managers are required to have ongoing contact, including face-to-face visits, at which time any areas of concern would be identified and addressed. Each participant in a Medicaid home and community-based waiver program is further protected through the state's long-term care ombudsman program, which has regular access to the assisted living setting. [Wisconsin's Board on Aging & Long Term Care](#): The Board on Aging and Long Term Care advocates for the interests of Wisconsin's long-term care consumers, informs those consumers of their rights and educates the public about health care systems and long-term care. The Board also operates the [Long Term Care Ombudsman](#), and [Volunteer Ombudsman](#) services.

EVIDENTIARY ASSESSMENT AND SUMMARY
Home and Community-Based Services (HCBS) Settings Rule
Heightened Scrutiny Review – Residential Care Apartment Complex (RCAC)

Facility Name Trinity Village Assisted Living		Facility Type Residential Care Apartment Complex (RCAC)	
Corporate Name (if applicable) TRN Milwaukee, LLC		License/Certification # 0016117	County Milwaukee
Facility Address 7300 Dean Road	City Milwaukee	State WI	Zip Code 53223
Primary Contact Name Steve Klekamp	Primary Contact Direct Phone (include area code) 414-371-7593	Primary Contact Email Address sklekamp@briaoftrinity.com	
Facility Website Address www.briaohs.com/location/trinity-village			

Reason for Institutional Presumption

- Settings in a publicly or privately operated facility that provides inpatient institutional treatment. Bria of Trinity Village Skilled Nursing Facility
- Settings on the grounds of, or adjacent to, a public institution. Name of institution:
- Settings with the effect of isolating individuals from the broader community of individuals not receiving HCBS waiver services.

The Centers for Medicare and Medicaid Services' (CMS) HCBS settings rule assumes that certain settings are not home and community-based. If a Wisconsin assisted living facility (setting) meets one of the criteria for institutional presumption as defined above, the DHS Division of Medicaid Services (DMS) conducts a heightened scrutiny review.

DMS believes that [Trinity Village Assisted Living RCAC](#) has overcome the institutional presumption and meets the criteria of a home and community-based services setting as summarized below.

To reinforce the extent to which Wisconsin's licensing and certification regulations and standards align with and reinforce the HCBS settings rule, the applicable state standard or regulation is included, where applicable, with the compliance review summary below.

Facility Summary

Trinity Village Assisted Living (hereafter Trinity Village) is a Residential Assistant Apartment Complex (RCAC) located in Milwaukee, Wisconsin. Independent living at Trinity Village offers residents the comfort of knowing that warm, friendly and well-trained staff are available to provide personal care to all residents who need minimal to little resistance with the activities of daily living. Trinity Village offers a wide range of services including– a professionally managed fitness center with on-site therapy services, a licensed nurse and well-trained staff on-site 24/7, innovative, award-winning memory enrichment programs, and a vibrant social activity calendar. Schedule complimentary transportation for personal excursions and appointments. Located in the City of

Milwaukee, there is an abundance of opportunities for residents to plan their own schedules, participate in individual and group activities and explore the greater Milwaukee community. Trinity Village is located in a vibrant neighborhood in Milwaukee and many activities are within walking distance of resident's apartments.

The setting is integrated in and supports full access to the greater community [42 CFR § 441.301(c)(4)(i)].

The community considers the setting a part of their community and does not associate the setting with institutional services.

Met Unmet Not Applicable

- The *Admission Agreement* for Trinity Village Assisted Living and the Bria Assisted Living Programs “agrees to optimize the Resident’s autonomy and independence through their ability to make choices about their daily schedule, activities, meals and opportunities to participate in the community to the extent they desire.” The Trinity Village Assisted Living is a RCAC and the majority of the residents are long time members of the greater Milwaukee community. Although the goal of Trinity Village is to maximize independent living services will be provided and arranged as indicated by the needs, interest of each resident . . . , and include community activities such as movies, picnics and bus rides.
- The majority of the activities, pre Covid-19 occurred in the community. Marketing brochure described, “Planned activities of social, recreational, wellness and cultural programs- Milwaukee Art Museum, Orchestra, etc.
- Letters submitted indicate that the community perceives Trinity Village Assisted Living as a vital resource for senior living and independent programming and a testimonial from a local pastor attested to the need for independent living.

Individuals, to the extent they desire, have opportunities to participate in typical community life activities outside of the setting.

Compliance within Wisconsin State Standards and Regulations

From [contract between SMA and specific MCOs](#):

ADDENDUM VI.

Personal Experience Outcomes in Long-Term Care:

Assisting people to achieve their desired individual quality-of-life outcomes is one of the primary goals of managed long-term care. The following personal experience outcome domains are the areas of life that people in long-term care programs have identified as being important to their quality of life. They provide a framework for learning about and understanding the individual’s needs, values, preferences, and priorities in the assessment and care planning process and in monitoring the quality of our long-term care programs. It is expected that each of these domains will be assessed during the member-centered planning process.

Choice – choosing:

- Where and with whom to live
- Supports and services
- Daily routines

Personal Experience – having:

- Interaction with family and friends
- Work or other meaningful activities
- Community involvement
- Stability
- Respect and fairness
- Privacy

Each participant in a Medicaid home and community-based waiver program must have a person-centered plan that, when indicated, includes any conditions that are to be applied to the conditions defined in the HCBS settings rule. (Wisconsin HCBS waivers, waiver-specific contracts, and policy documents)

Met Unmet Not Applicable

- Samples of self-evaluation Q&A states that residents are free to choose what they would like to do each day within or outside the RCAC. A sample copy of a resident lease for Trinity Village Assisted Living highlights choice in activities, plans, daily schedules, etc.
- Trinity Village offers many activities for the public, including a farmers market, car show, and the county fair. Trinity Village Assisted Living residents can choose to go out where ever they wish and frequently join in on the city’s events. Located in the heart of Milwaukee, Wisconsin, many residents still attend church services in the community, shop; visit a salon, trips to Walgreens and favorite restaurants.

Activities are individualized or include more than just setting-based group activities.

Met Unmet Not Applicable

The Trinity Village service agreement includes “Planned Activities. Staff will offer regular social and recreational activities, including periodic scheduled outings. All residents are welcome and encouraged to participate in these activities.” The Coordination/Individualization of Services policy provides that “all services will be tailored to each individual’s specific needs and be personalized to reflect individual needs, strengths, and goals.” Trinity Village Assisted Living residents can come and go as they wish and participate in activities on and off site, according to their preferences.

The setting supports access to community activities through its own transportation or coordination of transportation options.

Met Unmet Not Applicable

- Trinity Village’s Resident Agreement and Handbook confirms, “Trinity Village will transport residents to planned group activities outside the facility.”
- Residents of Trinity Village Assisted Living can utilize public transportation, ride-share services and taxi resources in the community.

Individuals, if they choose, have opportunities to seek employment and work in competitive integrated settings.

Compliance within Wisconsin State Standards and Regulations

From contract between DHS and specific MCOs:

V. Care Management:

C. Assessment and Member-Centered Planning Process

C.1. Comprehensive Assessment

C.1.(c) Documentation: The comprehensive assessment will include documentation by the IDT staff of:

C.1.(c)(viii) An exploration with the member of the member’s preferences and opportunities for community integration including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community.

C.3. Member-Centered Planning

C.3.(c)(iv)(g) The setting in which the member resides supports integration into 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.

VII. Services

A. General Provisions

1. Comprehensive Service Delivery System

-
- c. Serve to maintain community connections, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, and that are cost effective.

Addendum I

It is the DHS's "expectation under this contract that benefits will be fully integrated and will afford options that foster opportunities for interaction and integration into 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 while supporting each member's individual outcomes and recognizing each member's preferences."

Met Unmet Not Applicable

- Trinity Village residents who are supported with waiver funds discuss employment opportunities at each member centered plan review. Tenants work or volunteer outside the facility if they wish and have the capacity to work or volunteer.

Individuals are able to control their personal resources.

Compliance within Wisconsin State Standards and Regulations

Each tenant has the right to manage his or her own financial affairs, unless the tenant delegates responsibility to another person or the tenant has a guardian. (Summarized from [Wis. Admin. Code § DHS 89.34](#))

From [contract between SMA and specific MCO](#):

V. Care Management:

C. Assessment and Member-Centered Planning Process

C.1. Comprehensive Assessment

C.1.(c) The comprehensive assessment will include documentation by the interdisciplinary (IDT) staff of all of the following:

- (ix) An exploration with the member of the member's preferences and opportunities for community integration including opportunities to control personal resources.

C.3. Member-Centered Plan (MCP)

C.3.(c)(iv) The MCP shall document at least the following:

- (g) The setting in which the member resides supports integration into the greater community, including opportunities to control personal resources.

Met Unmet Not Applicable

Trinity Village Resident handbook and Resident Rights policy provides for a resident trust fund: "each resident can determine and manage their own personal finances, or to be kept informed of their finances if they establish a fund." "Each resident will have access to their funds if the account is established at Trinity Village Assisted Living and access is on a 24-7 day basis."

Choice, Independence, and Person-Centered Planning

The setting is selected by the individual from among setting options including non-disability specific settings. [42 CFR § 441.301(c)(4)(ii)].

Compliance within Wisconsin State Standards and Regulations

Wisconsin has protections in place for Medicaid waiver participants which ensure they understand their choices. DHS waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are responsible for discussing choice of service settings with the waiver participant and family/guardian to locate the most suitable provider setting, including a discussion of living in a non-disability specific

setting. In practice, the waiver agencies are complying with this requirement, and documenting and monitoring the choice of settings in the member-centered plan or IRIS support and service plan, as applicable.

In Wisconsin, the choice of setting requirement is not the initial responsibility of the provider setting. Rather the choice of setting takes place through the person-centered planning process at the waiver agency level. Waiver agencies are certified by DHS and work within the requirements of contracts with DHS. Through ongoing monitoring, Wisconsin will ensure that individuals maintain the right to choose where they reside.

Additionally, Wisconsin has protections in place through *Pre-Admission Consultation (PAC)*: <https://www.dhs.wisconsin.gov/adrc/pros/pac.htm>

“Pre-admission consultation is a service provided by Aging and Disability Resource Centers (ADRCs) to individuals who are in the process of considering or making a decision about the need to move out of his or her home in order to receive the help they need to remain independent and safe. Sometimes people are unaware that there are services and supports that can be provided right in their own home, often making a move unnecessary. Those who want to move into a nursing home or assisted living facility (such as a community based residential facility or residential care apartment complex), can find it difficult to know which facility would be the best for them or a loved one.”

From [contract between SMA and specific MCOs](#):

V. Care Management:

A. Member Participation:

A.2. Members shall receive clear explanations of:

- d. The full range of residential options, including in-home care, residential care and nursing home care when applicable.
- e. The benefits, drawbacks and likelihood of success of each option.

C.1. Comprehensive Assessment

C.1. (ix) – An exploration with the member of the member’s preferred living situation and a risk assessment for the stability of housing and finances to sustain housing as indicated.

C.3. Member-Centered Plan (MCP)

C.3.(c)(iv) The MCP shall document at least the following:

(f) – The home and community-based residential setting option chosen by the member and other options presented to the member unless the member declines to consider other options.

ADDENDUM VI.

Personal Experience Outcomes in Long-Term Care:

Assisting people to achieve their desired individual quality-of-life outcomes is one of the primary goals of managed long-term care. The following personal experience outcome domains are the areas of life that people in long-term care programs have identified as being important to their quality of life. They provide a framework for learning about and understanding the individual’s needs, values, preferences, and priorities in the assessment and care planning process and in monitoring the quality of our long-term care programs. It is expected that each of these domains will be assessed during the member-centered planning process.

Choice – choosing:

- Where and with whom to live
- Supports and services

[50.034](#), **Stats**

WI State Statue 50.034 Residential care apartment complexes.

5n) Required referral. Subject to sub. (5p), when a residential care apartment complex first provides written material regarding the residential care apartment complex to a prospective resident who is at least 65 years of age or has developmental disability or a physical disability and whose disability or condition is expected to last at least 90 days, the residential care apartment complex shall refer the prospective resident to a resource center under s. 46.283, unless any of the following applies:

- [50.034\(5n\)\(c\)](#) The person is an enrollee of a care management organization.

Person-Centered Planning: Options of services, providers, and settings, including non-disability specific settings, are offered to participants in all Wisconsin HCBS programs. ([Statewide Transition Plan](#), pg. 85; Wisconsin HCBS waivers, waiver-specific contracts, and policy documents)

Met Unmet Not Applicable

- Trinity Village Resident Rights Policy affirms that each resident “participate in the planning of their individual care and the selection and assignment of services.”
- The majority of the residents of Trinity Village choose to live at the setting prior to becoming eligible for waiver- supported services. If a resident needs to apply for medical assistance, a referral is made to the ADRC for options counseling. If the individual choses an MCO, an assessment and member centered plan is developed.
- Trinity Village also assures “access to each of their residents and assistance in accessing all government benefits the resident is entitled to.”

The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and resources available for room and board. [42 CFR § 441.301(c)(4)(ii)].

Compliance within Wisconsin State Standards and Regulations

Wisconsin Admin. Code ch. DHS 89 is intended “to establish standards and procedures for the certification or registration of residential care apartment complexes in order to promote the health and safety of persons residing in and receiving services from those facilities. This chapter is intended to ensure that all residential care apartment complexes provide each tenant with an independent apartment in a setting that is home-like and residential in character; make available personal, supportive and nursing services that are appropriate to the needs, abilities and preferences of individual tenants; and operate in a manner that protects tenants’ rights, respects tenant privacy, enhances tenant self-reliance and supports tenant autonomy in decision-making including the right to accept risk.” ([Wis. Admin. Code § DHS 89.11](#))

The tenant has the right to choose services and the right to refuse services. The tenant has the right to receive visitors, meet with groups, or participate in activities of the tenant’s choice, to receive and send sealed mail, and to have a private phone installed in his or her independent apartment. (Summarized from [Wis. Admin. Code § DHS 89.34](#))

Each tenant has the right to: manage his or her own financial affairs, unless the tenant delegates responsibility to another person or the tenant has a guardian; have choice of his or her physician and other medical providers; and a choice of providers of supportive, personal, and nursing services from providers other than the residential care apartment complex, subject to the requirements of [Wis. Admin. Code § DHS 89.24\(2\)\(b\)](#).

From [contract between SMA and specific MCOs](#):

V. Care Management:

C. Assessment and Member-Centered Planning Process:

Member-centered planning reflects understanding between the member and the IDT staff and will demonstrate changes that occur with the member’s outcomes and health status. The member is always central to the member centered planning and comprehensive assessment process. The IDT staff

will ensure that the member is at the center of the member centered planning process. The member will actively participate in the planning process, in particular, in the identification of personal outcomes and preferences.

Met Unmet Not Applicable

- The Trinity Village Residential agreement provides for each residents three meals each day and access to snacks and beverages on a 24-hour basis.
- A review of three person-centered plans confirmed that resident’s personal preferences, daily living routines as well as services are individualized for each resident and residents are actively involved in the member-centered planning process. A majority of the residents at Trinity Village Assisted Living is on Family Care and a sampling of the MCO plans confirmed that the residents were involved in their assessments and planning processes.

The setting facilitates choice regarding services and supports, and who provides them. Individuals have a choice in selecting their service providers, and are not reliant on services from the institution to the exclusion of other community-based options. Individuals can choose to receive services in the community to the same degree as individuals not receiving Medicaid HCBS. [42 CFR § 441.301(c)(4)(v)]

Compliance within State Standards

From Contract Between SMA and Each MCO:

VIII. Provider Network,

A. Member Choice

1. Information to Members: The MCO shall inform members about the full range of provider choice available to them, including free choice of medical and other providers that remain fee-for-service for Family Care members, as applicable.

From [IRIS Policy Manual](#)

1.1C Philosophy

Self-direction means people have more choice, control, flexibility, freedom, and responsibility. Within the context of IRIS, self-direction means participants decide upon the following:

- The goods, supports, and services needed to help live the life he or she wants while meeting his or her long-term care outcomes.
- The amount and location that goods, supports, and services are provided, as well as decisions on the provider of these services.

Person-Centered Planning:

- Options of services, providers, and settings, including non-disability specific settings, are offered to participants in all Wisconsin HCBS programs. (Statewide Transition Plan, pg. 87; Summarized from Wis. HCBS waivers, waiver-specific contracts, and policy documents.)
- Residents have the right to “receive adequate and appropriate care within the capacity of the facility” and to “use the licensed, certified or registered provider of health care and pharmacist of the resident’s choice.” ([Wis. Stat. § 50.09](#))

Rights:

- The tenant has the right to choose services and the right to refuse services. (WI Statewide Transition Plan, pg. 84; Summarized from Wis. Admin. Code § DHS 89.34)
- Each tenant has the right to: have choice of his or her physician and other medical providers; and a choice of providers of supportive, personal, and nursing services from providers other than the residential care apartment complex, subject to the requirements of [Wis. Admin. Code § DHS 89.24\(2\)\(b\)](#). (WI Statewide Transition Plan, pg. 85; Summarized from Wis. Admin. Code § [DHS 89.34](#))

Met Unmet Not Applicable

The Resident Rights Policy, under section Self-Determination: “You have the right to choose your healthcare providers, including your physician and pharmacy.”

The setting optimizes, but does 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. [42 CFR § 441.301(c)(4)(iv)]

Compliance within Wisconsin State Standards and Regulations

Wisconsin Admin. Code ch. DHS 89 is intended “to establish standards and procedures for the certification or registration of residential care apartment complexes in order to promote the health and safety of persons residing in and receiving services from those facilities. This chapter is intended to ensure that all residential care apartment complexes provide each tenant with an independent apartment in a setting that is home-like and residential in character; make available personal, supportive and nursing services that are appropriate to the needs, abilities and preferences of individual tenants; and operate in a manner that protects tenants' rights, respects tenant privacy, enhances tenant self-reliance and supports tenant autonomy in decision-making including the right to accept risk.” ([Wis. Admin. Code § DHS 89.11](#))

Each tenant will have a service agreement based on an assessment conducted with the active participation of the tenant. The service agreement includes the type, amount, and frequency of any services to be provided to the tenant, any additional services that are available, and the activities and social connections the tenant will be assisted in maintaining. (Summarized from [Wis. Admin. Code §§ DHS 89.26 and 89.27](#))

The tenant has the right to choose services and the right to refuse services. The tenant has the right to receive visitors, meet with groups or participate in activities of the tenant's choice, to receive and send sealed mail, and to have a private phone installed in his or her independent apartment. (Summarized from [Wis. Admin. Code § DHS 89.34](#))

Met Unmet Not Applicable

The Trinity Village Assisted Living Resident Right's Policy confirms that:

- The right to privacy which includes the right to private and unrestricted visits, to send and receive mail and to confidentiality regarding personal and medical information
- Each resident has the right to a wide variety of choices and to make their own decisions regarding visitors, hours, curfew, participation in activities, daily routines, etc.
- A review of three person-centered plans confirmed that each resident is unique and can choose participation in daily living tasks: One of the residents prefers that her meals be delivered to her room each day.

Individuals have the freedom and support to control their own schedules and activities. [42 CFR § 441.301(c)(4)(vi)(C)]

Compliance within Wisconsin State Standards and Regulations

Wisconsin Admin. Code ch. DHS 89 is intended “to establish standards and procedures for the certification or registration of residential care apartment complexes in order to promote the health and safety of persons residing in and receiving services from those facilities. This chapter is intended to ensure that all residential care apartment complexes provide each tenant with an independent apartment in a setting that is home-like and residential in character; make available personal, supportive and nursing services that are appropriate to the needs, abilities and preferences of individual tenants; and operate in a manner that protects tenants' rights, respects tenant privacy, enhances tenant self-reliance and supports tenant autonomy in decision-making including the right to accept risk.” ([Wis. Admin. Code § DHS 89.11](#))

Met Unmet Not Applicable

The Trinity Village person-centered planning process calls “for coordination/individualization of services.” All services will be tailored to each individual's specific needs and be personalized to reflect individual needs, strengths, and goals.” The resident rights policy provides for privacy, self-direction, management of financial affairs, services choice and choice of healthcare providers: medical, mental health, and pharmaceutical services. Tenants may come and go as they

please, can choose their daily activities and with whom to interact. Tenants participate in community activities as they choose just as they did prior to moving there. The resident rights document states that tenants receive visitors, meet with groups or participate in activities of the residents' choice.

The setting ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint, [42 CFR § 441.301(c)(4)(iii)].

Compliance within Wisconsin State Standards and Regulations

Trinity Village Assisted Living RCAC is a residential care apartment complex (RCAC). RCACs are independent apartments that offer additional services, if needed. The services provided to tenants are based on the tenant's selection from a menu of services and supports, both in the setting and in the community. A tenant may choose to do most activities independently or have more comprehensive assistance.

State-regulated settings are subject to unannounced licensing visits, both in response to complaints and during regular oversight visits. In addition, when HCBS participants are resident in the setting, waiver program care managers are required to have ongoing contact, including face-to-face visits, at which time any member rights issues would be identified and addressed.

Rights: A tenant has the right "to have privacy in his or her independent apartment and when receiving supportive, personal or nursing services." The tenant has the right "to be free from physical, sexual or emotional abuse, neglect or financial exploitation or misappropriation of property by the facility, its staff or any service provider under contract with the facility" and has the right to be free from coercion. (Statewide Transition Plan, pgs. 85-86; Summarized from Wis. Admin. Code §§ DHS [89.34](#) and [89.36](#))

DHS prohibits the use of restraint or seclusion of waiver participants unless the specific restraint or seclusion intervention has been reviewed and approved by DHS. Use of restraint and/or isolation is monitored by waiver agencies and DHS. Guidelines on restraints and isolation are found at: www.dhs.wisconsin.gov/waivermanual/appndx-r1.pdf and www.dhs.wisconsin.gov/dqa/memos/15-003.pdf (WI Statewide Transition Plan)

Met Unmet Not Applicable

The Trinity Village resident rights policy clearly provides for the rights of privacy, dignity, respect, and freedom from coercion and restraint.

Individuals are able to have visitors of their choosing at any time. [42 CFR § 441.301(c)(4)(vi)(D)]

Compliance within Wisconsin State Standards and Regulations

"Each independent apartment shall be of adequate size and configuration to permit tenants to carry out, with or without assistance, all the functions necessary for independent living, including... entertaining visitors." (WI Statewide Transition Plan; [Wis. Admin. Code § DHS 89.22](#))

The tenant has the right to receive visitors, meet with groups, or participate in activities of the tenant's choice, to receive and send sealed mail, and to have a private phone installed in his or her independent apartment. (WI Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 89.34](#))

Met Unmet Not Applicable

- The Trinity Village Resident's Rights Policy assures that each resident has the right "to private and unrestricted visits with any person of their choice in person and by telephone."
- According to the Trinity Village Residential Agreement, "A resident may not have guests reside with them for more than 14 days each year unless separate arrangements are made in advance with the Trinity Village Assisted Living setting."

Individuals have access to food at any time.

Compliance within Wisconsin State Standards and Regulations

A “Residential care apartment complex’ consists of independent apartments, each of which has an individual lockable entrance and exit, a kitchen, including a stove, and individual bathroom, sleeping and living areas” ([Wis. Admin. Code § DHS 89.13](#))

Each independent apartment shall have a kitchen that is “a visually and functionally distinct area within the apartment. The refrigerator shall have a freezer compartment. The sink shall have hot and cold running water.” (Wis. Admin. Code § DHS 89.22)

Met Unmet Not Applicable

The Trinity Village Residential Agreement states on page 11, #5 “Trinity Village Assisted Living will provide three meals each day, seven days per week.” Meals are taken in the common dining area or if the resident chooses, a meal delivered each day to their room.

The living unit is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services. The individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under applicable landlord/tenant laws. The State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord/tenant laws. [42 CFR § 441.301(c)(4)(vi)(A)].

Compliance within Wisconsin State Standards and Regulations

A residential care apartment complex shall enter into a mutually agreed-upon written service agreement with each of its tenants. The agreement shall include the services and the charges for any services in the service agreement and any additional services that are available for purchase. The agreement must also include the grounds for any termination of the agreement. (WI Statewide Transition Plan, pg. 88; Summarized from Wis. Admin. Code § [DHS 89.27](#))

Met Unmet Not Applicable

The Trinity Terrace residential contract includes sections on Terms of Agreement and Termination of Agreement. A thirty-day notice is required except for certain criteria as permitted in DHS 89.27.

Overcoming Institutional Presumption

The setting demonstrated a meaningful physical distinction between the HCBS setting and the institutional setting, including separate entrances and signage, physical divisions, and differences in décor.

Met Unmet Not Applicable

- As per the Trinity Village Residential contract, each resident “shall furnish the apartment with his/her own furnishings.”
- Photos submitted include pictures of outside signage, entrances that demonstrate physical separation between the RCAC and the SNF. An aerial view of Trinity Village confirms that all three settings, the RCAC, rehabilitation center and the SNF adjoin each other but all have distinct inside corridors and signage.
- Photos submitted demonstrate that there is a separate, main entrance to the Trinity Village RCAC, and a separate address from the skilled nursing facility.
- Photos submitted show that there are three apartment types and each apartment has a kitchen area, small appliances, etc.

Each individual has privacy in their sleeping or living unit.

Compliance within Wisconsin State Standards and Regulations

A “residential care apartment ‘complex’ or ‘facility’... consists of independent apartments, each of which has an individual lockable entrance and exit, a kitchen, including a stove, and individual bathroom, sleeping and living areas...” ([Wis. Admin. Code § DHS 89.13](#))

A tenant has the right “to have privacy in his or her independent apartment and when receiving supportive, personal or nursing services.” The tenant has the right “to be free from physical, sexual or emotional abuse, neglect or financial exploitation or misappropriation of property by the facility, its staff or any service provider under contract with the facility” and has the right to be free from coercion. (Summarized from Wis. Admin. Code §§ DHS 89.34 and 89.36)

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance (DQA) surveyors that the setting (DQA, [F-02138](#), HCBS Compliance Review):

- Provides lockable key entry doors on all resident rooms, and individual keys to all residents.
- Has a policy ensuring that staff uses facility keys to enter a resident’s room only under circumstances agreed upon with the resident.

Met Unmet Not Applicable

- Photos submitted for a sampling of apartments confirm that there are lockable doors on each living units and each resident gets a key to his/her unit.

Individual living units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.

Compliance within Wisconsin State Standards and Regulations

Each independent apartment shall have “an individual lockable entrance and exit. A single door may serve as both entrance and exit. Keys to the door to the independent apartment and to the residential care apartment complex shall be supplied to the tenant.” ([Wis. Admin. Code § DHS 89.22](#))

“Individual lockable entrance and exit’ means a door that provides access to an independent apartment and is equipped with an individually keyed lock which is operable from both inside and outside the unit and which the tenant can open, close and lock to ensure privacy.” ([Wis. Admin. Code § DHS 89.13](#))

Locks on living unit doors allow the resident to exercise his or her right to privacy and personal choice. Staff in each residential setting should always knock and receive permission prior to entering a resident’s living space. DHS expects the residential setting to have a policy in place to ensure that staff always knock and receive permission prior to entering a resident’s room or personal living space to respect residents’ rights to privacy. Please refer to DHS’ [Frequently Asked Questions \(FAQs\) about Door Locks in Adult Long-Term Care Residential Settings](#) for additional lock-related information.

Met Unmet Not Applicable

- The Trinity Village Residential contract guarantees that each resident has a key to his or her individual living unit.
- A review of the staff-training curriculum, under Privacy and Resident’s rights, confirms that staff must knock before entering a resident’s living unit and that each resident must give permission for staff to enter.

Individuals sharing units have a choice of roommates in that setting.

Compliance within Wisconsin State Standards and Regulations

“Multiple occupancy of an independent apartment shall be limited to a spouse or a roommate chosen at the initiative of the tenant.” ([Wis. Admin. Code § DHS 89.22](#))

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance surveyors that residents have choice of roommates (DQA, [F-02138](#), HCBS Compliance Review).

Person-Centered Planning: Family Care Provider Network, I. Access to Providers: “For residential care facilities, evidence of adequate capacity shall include identification of the availability of residential providers offering private rooms, and a process for moving an individual to a private room when one becomes available that is consistent with the member’s preferences.” ([DHS-MCO Contract, Article VIII, I\(6\)d](#))

Met Unmet Not Applicable

All of the living units at Trinity Village are private and there is no roommate provision. If a spouse is accepted at Trinity Village, both persons may live in the unit.

Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement. [42 CFR § 441.301(c)(4)(vi)(B)(1-3)]

Compliance within Wisconsin State Standards and Regulations

A tenant has the right “to furnish his or her independent apartment and to maintain personal possessions as space permits as long as the tenant does not unreasonably interfere with the other tenants' choices or endanger the health or safety of the other tenants.” (WI Statewide Transition Plan; [Wis. Admin. Code § DHS 89.34](#))

Met Unmet Not Applicable

The Trinity Village Residential Contract, under Agreements section, B- “Residents shall furnish their individual apartments with their own furnishings.” Trinity Village provides to each living unit a refrigerator, microwave, small appliances, air conditioner, and internet service.

The setting is physically accessible to the individual. [42 CFR § 441.301(c)(4)(vi)(E)]

Compliance within Wisconsin State Standards and Regulations

“Each independent apartment shall be of adequate size and configuration to permit tenants to carry out, with or without assistance, all the functions necessary for independent living, including sleeping; sitting; dressing; personal hygiene; storing, preparing, serving and eating food; storing clothing and other personal possessions; doing personal correspondence and paperwork; and entertaining visitors.” ([Wis. Admin. Code § DHS 89.22](#))

Met Unmet Not Applicable

The Trinity Village residential apartment complex is physically accessible. Photos submitted of each apartment show accessible equipment, grab bars, wheelchair accessible doorways, etc.

Operational Distinction

The setting demonstrated meaningful operational distinction between the institution and the community-based setting, such as minimal administrative and financial interconnectedness.

Met Unmet Not Applicable

- A financial statement confirms that Trinity Village has a separate budget and cost allocation formula and is financially separate from the SNF.
- The organizational chart illustrates that all staff at Trinity Village are hired for the RCAC, and do not work in the SNF or in any other campus setting. There is a separate RCAC administrator as well as a separate program director. Job descriptions for these positions as well as for the resident assistants confirm that they work at Trinity Village.

There is a distinction between staff for the HCBS setting and the institutional setting. Staff working in the HCBS setting receive initial and ongoing training on HCBS settings rule requirements and principles, and person-centered planning.

Met Unmet Not Applicable

Trinity Village submitted a staff training orientation as well as the ongoing training curriculum. Resident rights, HCBS settings rule, privacy, etc. are all integral to the training of staff.

DHS Recommendation

DHS finds that [Trinity Village Assisted Living RCAC](#) possesses the required home and community-based characteristics, is not isolating in nature, and overcomes the presumption of having institutional qualities.

Please note that these findings are preliminary only and must receive final approval from CMS.

In accordance with federal requirements, all compliance results will be made public by DHS. The decision will appear on the subsequent upload of facility information to DHS websites, including the [DQA Provider Search webpage](#) and the provider directories available at the [Consumer Guide to Health Care – Finding and Choosing an Assisted Living Facility webpage](#).

Ongoing Compliance

Wisconsin's Division of Quality Assurance (DQA) will ensure through ongoing compliance reviews that [Trinity Village Assisted Living RCAC](#) continues to meet the requirements of the HCBS Settings Rule. The DMS Bureau of Assisted Living (BAL) has incorporated the HCBS settings rule into its current assisted living survey process and activities. ([DQA Implementation of Home and Community-Based Services Settings Rule in Residential Assisted Living Facilities](#))

Waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are certified by the Wisconsin Department of Health Services (DHS) and work within the requirements of contracts with DHS. State licensed settings are subject to unannounced licensing visits, both in response to complaints and during regular oversight visits, by the state licensing authority, or by the entity that certified the provider if not regulated by the state. As part of these periodic licensing or certification reviews, the credentialing entity will also review the setting for continued HCBS compliance. Providers will be required to address any HCBS rule deficiencies.

When HCBS participants are resident in the setting, waiver program care managers are required to have ongoing contact, including face-to-face visits, at which time any areas of concern would be identified and addressed. Each participant in a Medicaid home and community-based waiver program is further protected through the state's long-term care ombudsman program, which has regular access to the assisted living setting. [Wisconsin's Board on Aging & Long Term Care](#): The Board on Aging and Long Term Care advocates for the interests of Wisconsin's long-term care consumers, informs those consumers of their rights and educates the public about health care systems and long-term care. The Board also operates the [Long Term Care Ombudsman](#), and [Volunteer Ombudsman](#) services.

EVIDENTIARY ASSESSMENT AND SUMMARY
Home and Community-Based Services (HCBS) Settings Rule
Heightened Scrutiny Review – Community-Based Residential Facility (CBRF)

Facility Name Woodland Care CBRF		Facility Type Community-Based Residential Facility (CBRF)	
Corporate Name (if applicable) Clark County Healthcare Center		License/Certification # 0014104	County Clark
Facility Address W4266 County Highway X	City Owen	State WI	Zip Code 54460
Primary Contact Name Angela Greschner	Primary Contact Direct Phone (include area code) 715-229-0244	Primary Contact Email Address Angela.greschner@co.clark.wi.us	
Facility Website Address https://www.clarkrehabandliving.com/cbrf-care.phtml			

Reason for Institutional Presumption

- Settings in a publicly or privately operated facility that provides inpatient institutional treatment.
- Settings on the grounds of, or adjacent to, a public institution. Name of institution: [Clark County Healthcare Center](#)
- Settings with the effect of isolating individuals from the broader community of individuals not receiving HCBS waiver services.

The Centers for Medicare and Medicaid Services' (CMS) HCBS settings rule assumes that certain settings are not home and community-based. If a Wisconsin assisted living facility (setting) meets one of the criteria for institutional presumption as defined above, the DHS Division of Medicaid Services (DMS) conducts a heightened scrutiny review.

DMS believes that Woodland Care CBRF has overcome the institutional presumption and meets the criteria of a home and community-based services setting as summarized below.

To reinforce the extent to which Wisconsin's licensing and certification regulations and standards align with and reinforce the HCBS settings rule, the applicable state standard or regulation is included, where applicable, with the compliance review summary below.

Facility Summary

Woodland Care CBRF is located in northern Wisconsin, in Clark County on the grounds of the Clark County Rehabilitation and Living Center. The history of the property corresponds with the evolution of programs and services for persons with long term disabilities as defined by populations served today in the [long term care programs](#) of the Wisconsin Department of Health. Originally conceived and operated as the Clark County Insane Asylum in 1917, in addition to the 8 unit Woodland Care CBRF, the campus today consists of a 172-bed SNF, inpatient and outpatient rehab care, a 16 bed ICF-ID unit, and two day services programs. The Woodland Enhanced Health Services Commission, a collaboration of several counties throughout Wisconsin, contracts with Clark County

Rehabilitation & Living Center to maintain and expand special services. The commission was created by an intergovernmental agreement under Wis. Stats 66.0301 consisting of member counties that hold the license for operating Clark County Rehabilitation & Living Center's nursing home and facility for the developmentally disabled (ICF-ID). The commission is contracted with Clark County to provide the infrastructure and staffing for activities related to the nursing home and ICF-ID. The state has recognized and accepted this type of commission ownership model as set forth in Wis. Stat. 49.49(7). WEHSC was formed in January 2012 and is currently made up of 31 counties.

Clark County Rehabilitation & Living Center has historically provided services for behaviorally challenged individuals to counties throughout the state since 1922, providing transitional care for individuals with mental illness or developmental disabilities moving from a more restrictive setting (such as a state institutional care) to a facility with more freedom. For many, this can be a dramatic change and the small, 8 bed CBRF, provides a more structured interim setting to make it easier for individuals to adapt to a fully integrated HCBS setting.

Woodland Care CBRF provides long-term care for individuals with mental illness or developmental disabilities who have been unsuccessful in smaller, less structured settings. Woodland Care is committed to providing a safe, healthy, and structured living environment that is as home-like as possible for people with chronic mental illnesses and developmental disabilities. The program goal is to promote stabilization and independence through goal-oriented coaching and education and other services developed with the individual as an active participant and taking into account each person's unique strengths and abilities and d on their specific outcomes and needs. From the Woodland Care website: "We get to know their interests and passions and work together to identify the services that will be support them in life and keep them safe."

The setting is integrated in and supports full access to the greater community [42 CFR § 441.301(c)(4)(i)].

The community considers the setting a part of their community and does not associate the setting with institutional services.

Met Unmet Not Applicable

Testimonials from a local shop owner and the local librarian state that Woodland Care CBRF residents visit frequently and are out and about at cafes and other places in the community. The intake assessment, ISPs and MCO member centered plans discuss preferred activities with each individual and assists them in accessing the community. Along with going out with family and friends, activities include shopping and library trips in Owen and in other neighboring towns. Information states that most residents in this facility need supports while in the community, preparing them for living in their own community of choice. Residents attend local sporting events, fairs and parades, the community swimming pool and bowling outings.

Individuals, to the extent they desire, have opportunities to participate in typical community life activities outside of the setting.

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning: The plan must be based on an assessment that addresses the person's "capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known" and "social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs." (Summarized from [Wis. Admin. Code § DHS 83.35](#))

Program Services: Community activities. The CBRF shall provide information and assistance to facilitate participation in personal and community activities. The CBRF shall develop, update and make available to all residents, monthly schedules and notices of community activities, including costs. ([Wis. Admin. Code § DHS 83.38\(1\)\(d\)](#))

Family and social contacts: The CBRF shall encourage and assist residents in maintaining family and social contacts. (Wis. Admin. Code § DHS 83.38(1)(e))

Met Unmet Not Applicable

The intake assessment, ISPs and MCO member centered plans discuss preferred activities with each individual and assists them in accessing the community. Along with going out with family and friends, activities include shopping and library trips in Owen and in other neighboring towns. Information states that most residents in this facility need supports while in the community, preparing them for living in their own community of choice. Residents attend local sporting events, fairs and parades, the community swimming pool and bowling outings. Brochures, resident handbook, and cover letter discuss independence and resident choice in a variety of activities and personal schedules. Sample ISPs and MCPs include discussion and review of interaction with others and preferences for participating in activities.

Activities are individualized or include more than just setting-based group activities.

Met Unmet Not Applicable

Woodland Care CBRF arranges both onsite and offsite activities for resident who wish to participate. The intake assessment form, section IV, Social & Leisure Needs/Preference includes discussion of “involved in activities in community or with family,” current activity interest, and family involvement. One ISP states the individual “accepts or declines activities of her choosing. She enjoys shopping when she has adequate funds to do so.” Residents have weekly outings for shopping and coffee and attend local sporting events, fairs, parades, bowling outings, apple orchard and other business tours, golf cart rides, and movies.

The setting supports access to community activities through its own transportation or coordination of transportation options.

Met Unmet Not Applicable

The Woodland Care CBRF service agreement states that staff assist resident in arranging transportation for medical appointments, religious services and community activities of interest for the resident. Transportation services for medical appointments and CBRF outings and activities are included in the daily rate. A section of the ISP discusses transportation and records if the resident drives and has a license, if family drives for the resident, or if staff arranges transportation.

Individuals, if they choose, have opportunities to seek employment and work in competitive integrated settings.

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning:

The plan must be based on an assessment that addresses the person’s “capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known” and “social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs.” ([WI Statewide Transition Plan](#); Summarized from [Wis. Admin. Code § DHS 83.35](#)).

From contract between DHS and specific MCOs:

V. Care Management:

C. Assessment and Member-Centered Planning Process

C.1. Comprehensive Assessment

C.1.(c) Documentation: The comprehensive assessment will include documentation by the IDT staff of:

C.1.(c)(viii) An exploration with the member of the member’s preferences and opportunities for community integration including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community.

C.3. Member-Centered Planning

C.3.(c)(iv)(g) The setting in which the member resides supports integration into 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.

VII. Services

A. General Provisions

1. Comprehensive Service Delivery System

- c. Serve to maintain community connections, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, and that are cost effective.

Addendum I

It is the DHS’s “expectation under this contract that benefits will be fully integrated and will afford options that foster opportunities for interaction and integration into 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 while supporting each member’s individual outcomes and recognizing each member’s preferences.”

Met Unmet Not Applicable

For Woodland Care CBRF residents supported with waiver funding, the regularly scheduled MCP reviews with the member includes discussion of their personal Employment/Education outcomes. One LTC outcome states “I want to work. I like to keep busy, learn new things, and earn money.” And another LTC preferences: I want “to work at prevocational workshop with the long term care goal of community employment.” The MCOs contract with Woodland Care CBRF based on the needs, services, and activities of the member. Some residents are under court order and guardianship.

Individuals are able to control their personal resources.

Compliance within Wisconsin State Standards and Regulations

Every resident in a community-based residential facility has the right to “manage the resident’s own financial affairs, unless the resident delegates, in writing, such responsibility to the facility and the facility accepts the responsibility or unless the resident delegates to someone else of the resident’s choosing and that person accepts the responsibility.” (Statewide Transition Plan; [Wis. Stat. § 50.09](#)).

Met Unmet Not Applicable

The Woodland Care CBRF resident rights document states that residents have a lockable space in the personal closet of their unit and they are encouraged to use the lockbox for cash, checkbook and credit cards, etc. to manage their resources independently. Residents are also encouraged to deposit amounts greater than \$20.00 in a resident account held by the facility if they wish or to have family or a legal representative hold the funds for them.

Woodland Care CBRF is not permitted to hold more than \$200.00 per resident. Funds in excess of \$200.00 will be given to Resident/Legal Guardian. If Resident does not have a legal guardian and/or does not wish to hold the money, Woodland Care CBRF will assist the resident in opening an interest-bearing account in a savings institution. Residents provide written consent if they wish to keep their own funds or if they wish the facility to hold them. The Woodland Care CBRF Management of Resident Funds Policy and Procedure delineates these choices.

The setting is selected by the individual from among setting options including non-disability specific settings. [42 CFR § 441.301(c)(4)(ii)].

Compliance within Wisconsin State Standards and Regulations

Wisconsin has protections in place for Medicaid waiver participants which ensure they understand their choices. DHS waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are responsible for discussing choice of service settings with the waiver participant and family/guardian to locate the most suitable provider setting, including a discussion of living in a non-disability specific

setting. In practice, the waiver agencies are complying with this requirement, and documenting and monitoring the choice of settings in the member-centered plan or IRIS support and service plan, as applicable.

In Wisconsin, the choice of setting requirement is not the initial responsibility of the provider setting. Rather the choice of setting takes place through the person-centered planning process at the waiver agency level. Waiver agencies are certified by DHS and work within the requirements of contracts with DHS. Through ongoing monitoring, Wisconsin will ensure that individuals maintain the right to choose where they reside.

Additionally, Wisconsin has protections in place through *Pre-Admission Consultation (PAC)*: <https://www.dhs.wisconsin.gov/adrc/pros/pac.htm>.

“Pre-admission consultation is a service provided by Aging and Disability Resource Centers (ADRCs) to individuals who are in the process of considering or making a decision about the need to move out of his or her home in order to receive the help they need to remain independent and safe. Sometimes people are unaware that there are services and supports that can be provided right in their own home, often making a move unnecessary. Those who want to move into a nursing home or assisted living facility (such as a community based residential facility or residential care apartment complex), can find it difficult to know which facility would be the best for them or a loved one.”

Met Unmet Not Applicable

Woodland Care CBRF serves target groups “Emotionally Disturbed / Mental Illness” and/or “Developmental/Intellectual Disabilities with Behavioral Needs,” and many residents have a guardian and/or a court order for placement. For these individuals Woodland Care CBRF may not be their setting of choice but it is the setting of choice of the MCO and placing county. The program statement says that the physical layout of the facility provides for a higher level of supervision, safety and security than normally available in a CBRF. Residents or their legal representative agree to and sign the admission agreement.

The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and resources available for room and board. [42 CFR § 441.301(c)(4)(ii)].

Compliance within Wisconsin State Standards and Regulations

“COMPREHENSIVE INDIVIDUAL SERVICE PLAN Individual service plan review. Annually or when there is a change in a resident's needs, abilities or physical or mental condition, the individual service plan shall be reviewed and revised based on the assessment under sub. (1). All reviews of the individual service plan shall include input from the resident or legal representative, case manager, resident care staff, and other service providers as appropriate.” ([Wis. Admin. Code § DHS 83.35 \(1\)\(d\)](#))

Met Unmet Not Applicable

Woodland Care CBRF will document in detail in the ISP any limitations including the use of restrictive measures which may be put in place for an individual due to their safety needs and/or functional abilities or related to a court order. The Assessment, Individual Service Plan and Evaluations Policy and Procedure states that the facility shall involve the resident and the resident’s legal representative in developing the individual service plan and the resident or the resident’s legal representative shall sign the plan acknowledging their involvement in, understanding of, and agreement with the plan. As of 1/20/21, no residents at Woodland Care CBRF have restrictive measures or behavioral support plans.

The setting facilitates choice regarding services and supports, and who provides them. Individuals have a choice in selecting their service providers, and are not reliant on services from the institution to the exclusion of other community-based options. Individuals can choose to receive services in the community to the same degree as individuals not receiving Medicaid HCBS. [42 CFR § 441.301(c)(4)(v)]

Compliance within State Standards

Before or at the time of admission, the CBRF shall provide written information regarding services available and the charges for those services to each resident or the resident’s legal representative. This information shall include any charges for services not covered by the daily or monthly rate (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.29](#)).

Person-Centered Planning

- “Options of services, providers, and settings, including non-disability specific settings, are offered to participants in all Wisconsin HCBS programs.” (WI Statewide Transition Plan; Summarized from Wis. HCBS waivers, waiver-specific contracts, and policy documents.)
- Residents have the right to “use the licensed, certified or registered provider of health care and pharmacist of the resident’s choice.” ([Wis. Stat. § 50.09](#))

Met Unmet Not Applicable

Woodland Care CBRF residents have options to use onsite providers if they wish, but residents can choose their medical and other providers. Medical and history forms include information about physician, other medical and pharmaceutical services, and other services preferred by the resident. Other activities and services like attending church services are the choice of the individual resident.

The setting optimizes, but does 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. [42 CFR § 441.301(c)(4)(iv)]

Compliance within Wisconsin State Standards and Regulations

Rights: Licensees must protect the civil rights of residents. Residents have the right to make decision relating to care, activities, daily routines, and other aspects of life that enhance the resident’s self-reliance and support the resident’s autonomy and decision-making. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.32](#)).

Person-Centered Planning: The plan must be based on an assessment that addresses the person’s capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known, and social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts, and vocational needs. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.35](#)).

“The CBRF shall teach residents the necessary skills to achieve and maintain the resident’s highest level of functioning.” The CBRF shall provide or arrange services adequate to meet the needs of the residents including providing leisure time activities, facilitating participation in community activities, and encouraging and assisting residents in maintaining family and social contacts. (Statewide Transition Plan; Summarized from [Wis. Admin. Code § DHS 83.38](#)).

Rights: Residents have the right to make decisions relating to care, activities, daily routines, and other aspects of life that enhance the resident’s self-reliance and support the resident’s autonomy and decision making, and have the least restrictive conditions necessary to achieve the purposes of the resident’s admission. The CBRF may not impose a curfew, rule, or other restriction on a resident’s freedom of choice. (Statewide Transition Plan; Summarized from Wis. Admin. Code § DHS 83.32).

Met Unmet Not Applicable

Woodland Care CBRF policies focus on resident involvement in the development and review of the ISP and resident choice in daily living and activities. Staff may provide education and encourage things, like a good sleep schedule, but residents are encouraged to be as independent as possible. Residents determine their activities every day, what they wear and what they want to do. Residents have locked areas in their wardrobes in their room where they can keep money if they chooses to manage their resources independently. Residents participate directly in the MCP and the ISP reviews and discuss personal outcomes and long term goals such as employment and education activities. Social and leisure time activities and preferences are also discussed and are the choice and preference of the resident.

Individuals have the freedom and support to control their own schedules and activities. [42 CFR § 441.301(c)(4)(vi)(C)]

Compliance within Wisconsin State Standards and Regulations

Person-Centered Planning: The plan must be based on an assessment that addresses the person's "capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known" and "social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs." (Statewide Transition Plan, pg. 72; Summarized from Wis. Admin. Code § DHS 83.35) Rights: Licensees must protect the civil rights of residents. Residents have the right to make decision relating to care, activities, daily routines, and other aspects of life that enhance the resident's self-reliance and support the resident's autonomy and decision-making. (Summarized from Wis. Admin. Code § DHS 83.32)

Met Unmet Not Applicable

Woodland Care CBRF policies focus on resident involvement in the development and review of the ISP and resident choice in daily living and activities. Staff may provide education and encourage things, like a good sleep schedule, but residents are encouraged to be as independent as possible. Residents determine their activities every day, what they wear and what they want to do. Residents have locked areas in their wardrobes in their room where they can keep money if they manage their resources independently. Residents participate directly in the MCP and the ISP reviews and discuss personal outcomes and long term goals such as employment and education activities. Social and leisure time activities and preferences are also discussed and are the choice of the resident.

The setting ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint, [42 CFR § 441.301(c)(4)(iii)].

Compliance within Wisconsin State Standards and Regulations

Rights: Residents have the right to be "treated with courtesy, respect and dignity by all employees of the facility and other providers of health care and pharmacists with whom the resident comes in contact." ([Statewide Transition Plan](#), pg. 72; Summarized from [Wis. Stat. § 50.09](#)).

Residents must be provided with "physical and emotional privacy in treatment, living arrangements, and in caring for personal needs" including, privacy for visits by spouse or domestic partner, or to share a room with a spouse or domestic partner if both are residents for the same facility; privacy concerning health care; confidentiality of health and personal records; and the right to approve or refuse their release to any individual outside the facility. (Statewide Transition Plan, pg. 72; Summarized from Wis. Stat. § 50.09).

"Any form of coercion to discourage or prevent a resident or the resident's legal representative from exercising any of the rights under this subchapter is prohibited. Any form of retaliation against a resident or the resident's legal representative for exercising any of the rights in this subchapter, or against an employee or any other person who assists a resident or the resident's legal representative in the exercise of any of the resident rights in this subchapter, is prohibited." (Statewide Transition Plan, pg. 72; Wis. [Admin. Code § DHS 83.32](#)).

In addition, each resident shall have all of the following rights: freedom from mistreatment; freedom from seclusion; freedom from chemical restraint; and freedom from physical restraints, except upon prior review and approval by DHS upon written authorization from the resident's primary physician or advanced practice nurse prescriber. DHS may place conditions on the use of a restraint to protect the health, safety, welfare, and rights of the resident. (Statewide Transition Plan; Summarized from Wis. Admin. Code § DHS 83.32).

Individuals are able to have visitors of their choosing at any time. [42 CFR § 441.301(c)(4)(vi)(D)]

Compliance within Wisconsin State Standards and Regulations

Rights: Residents have the right to private and unrestricted communications with their family, physician or other medical provider, attorney, and any other person, unless documented as medically contraindicated. The right to private and unrestricted communications includes the right to reasonable access to a telephone for private communications; and the opportunity for private visits. (WI Statewide Transition Plan; Summarized from Wis. Stat. § 50.09).

Met Unmet Not Applicable

Woodland Care CBRF encourages residents to maintain family contacts as appropriate and will help in arranging family contacts. Visitors are encouraged to visit 8:00 am to 8:30 pm, but visitors are welcome at any time. Overnight guests are not permitted.

Individuals have access to food at any time.

Compliance within Wisconsin State Standards and Regulations

The CBRF must provide each resident with palatable food that meets the recommended dietary allowance based on current guidelines, including at least three meals a day and a snack in the evening, or more often based on the resident's dietary needs. If a resident is away during meal time, the CBRF shall offer food to the resident on the resident's return. The CBRF shall make reasonable adjustments to the menu for individual resident likes, habits, customs, condition, and appetites. (Summarized from Wis. Admin. Code § DHS 83.41).

Met Unmet Not Applicable

Woodland Care CBRF residents are encouraged to not keep food in their rooms for sanitation purposes. There are storage areas in the kitchen they can use. Locked storage is also available if residents are concerned about theft of their personal items. Woodland Care staff do not limit access to food. If a resident is observed to make choices that are leading to medical issues, CBRF may recommend a dietician consult and/or provide one-on-one education about healthy options. Residents are provided three meals and snacks each day.

The living unit is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services:

- The individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the applicable landlord/tenant laws.
 - The State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law. [42 CFR § 441.301(c)(4)(vi)(A)]
-

Compliance within Wisconsin State Standards and Regulations

"Each resident shall have a written agreement that is signed by and provided to each party. The agreement includes a description of the space to be provided to the resident, the agreed upon rate, a statement of the resident's rights and the terms of termination, including timeframes. The agreement is updated annually." ([WI Statewide Transition Plan](#), pg. 77; [Wis. Admin. Code § DHS 83.29](#)).

The agreement must include terms for resident notification to the CBRF of voluntary discharge, and reasons and notice requirements for involuntary discharge or transfer, including transfers within the CBRF. (Summarized from [Wis. Admin. Code § DHS 83.31](#)).

Met Unmet Not Applicable

The Woodland Care CBRF resident rights section on adjustments to fees and services provides that residents are given a minimum of 30 days' written notice prior to changes in charges that will be in effect for more than 30 days. In the section discharge or transfer initiated by the CBRF states that the CBRF shall give written notice of discharge 30 days or more prior to the date of discharge and the written notice shall explain to the resident the need for and possible alternatives for the discharge.

Overcoming Institutional Presumption

The setting demonstrated a meaningful physical distinction between the HCBS setting and the institutional setting, including separate entrances and signage, physical divisions, and differences in décor.

Met Unmet Not Applicable

Woodland Care CBRF is located on the 4th floor of the building that also is the SNF. There is a separate entrance to the CBRF and separate signage designating the entrance to the CBRF. There is a separate elevator that goes only to the 4th floor. Residents and visitors do not go through or by the SNF. Evacuation, if necessary, is not through the SNF. Resident rooms in the CBRF are distinctly different than the SNF and CBRF residents may bring their own beds and other furniture if they wish. For those who chose not to do so, there are cozy beds with stained wooden headboards specific to the CBRF. The common areas are furnished differently and more home-like than the institutional décor of the SNF. The furniture, rugs and dining furniture are distinct to the CBRF. CBRF residents can furnish and decorate their units as they wish.

Each individual has privacy in their sleeping or living unit.

Compliance within Wisconsin State Standards and Regulations

Residents must be provided with “physical and emotional privacy in treatment, living arrangements, and in caring for personal needs” including, privacy for visits by spouse or domestic partner, or to share a room with a spouse or domestic partner if both are residents for the same facility; privacy concerning health care; confidentiality of health and personal records; and the right to approve or refuse their release to any individual outside the facility. (Statewide Transition Plan; Summarized from Wis. Stat. § 50.09).

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance surveyors that the setting (DQA, [F-02138](#), HCBS Compliance Review):

- Provides lockable key entry doors on all resident rooms, and individual keys to all residents.
- Has a policy ensuring that staff uses facility keys to enter a resident’s room only under circumstances agreed upon with the resident.

Met Unmet Not Applicable

Each resident unit in Woodland Care CBRF is a private living area and includes a private sink and toilet. Each unit has a lockable door. If a resident chooses not to have a key or due to court order or other measures is unable to have a key to their unit, staff will lock the unit when the asked by the resident to ensure the safety of their personal property when they are absent from the unit.

Individual living units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.

Compliance within Wisconsin State Standards and Regulations

Locks on living unit doors allow the resident to exercise his or her right to privacy and personal choice. Staff in each residential setting should always knock and receive permission prior to entering a resident’s living space. DHS expects the residential setting to have a policy in place to ensure that staff always knock and receive permission prior to entering a resident’s room or personal living space to respect residents’ rights to privacy. Please refer to DHS’ [Frequently Asked Questions \(FAQs\) about Door Locks in Adult Long-Term Care Residential Settings](#) for additional lock-related information.

Met Unmet Not Applicable

Woodland Care CBRF resident living areas have individual locks and residents have the right to privacy which includes the ability to lock the door to their room. The locking mechanism on the door locks allow the resident to exit their room without delay. Residents may chose not to have a key and they may change their mind regarding this choice at any time. Some residents may not have the right to lock their living area door if, for example, this is a condition of a Chapter 51 order. If the resident’s right to have a key is limited, this must be reflected in the ISP. Residents who are not able to manage a key may ask staff to lock their room door when they will be out of their room to protect personal belongings. The key policy specifically states when staff may use the master key to enter a resident’s room. Staff “will use reasonable discretion in entering a resident’s room at all times.” Staff shall knock and verbally inquire for the resident to respond before entering their room. If the resident does not respond on the first knock, staff will attempt a second time before entering for the purpose of checking on their safety/welfare.

Individuals sharing units have a choice of roommates in that setting.

Compliance within Wisconsin State Standards and Regulations

Requirements of initial and ongoing licensure in Wisconsin includes verification by DHS Division of Quality Assurance surveyors that residents have choice of roommates (DQA, [F-02138](#), HCBS Compliance Review):

Person-Centered Planning: Family Care Provider Network, I. Access to Providers: “For residential care facilities, evidence of adequate capacity shall include identification of the availability of residential providers offering private rooms, and a process for moving an individual to a private room when one becomes available that is consistent with the member’s preferences.” ([DHS-MCO Contract, Article VIII, I\(6\)d](#))

Met Unmet Not Applicable

The Woodland Care CBRF resident rooms are private and include a sink and toilet.

Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement. [42 CFR § 441.301(c)(4)(vi)(B)(1-3)]

Compliance within Wisconsin State Standards and Regulations

Every resident in a community-based residential facility shall have the right to retain and use personal clothing and effects and to retain, as space permits, other personal possessions in a reasonably secure manner. (Summarized from Wis. Stat. § 50.09)

Met Unmet Not Applicable

Woodland Care CBRF residents may use their own furnishings and decorate their living unit as they wish. Resident rooms in the CBRF are distinctly different than the SNF and CBRF residents may bring their own beds if they wish. For those who chose not to do so, the facility will provide cozy beds with stained wooden headboards specific to the CBRF.

The setting is physically accessible to the individual. [42 CFR § 441.301(c)(4)(vi)(E)]

Compliance within Wisconsin State Standards and Regulations

The bedroom and congregate dining and living area for any resident requiring a specified level of care and who is blind or not fully ambulatory shall be on the first floor. (Summarized from Wis. Admin. Code § DHS 83.50)

Bedrooms shall be designed and equipped to allow residents to achieve the highest level of independent functioning and shall be fully accessible to the resident. Within the bedroom, each resident shall have, or be provided with a closet or wardrobe with clothes hanging rods and shelves, and drawer space adequate to reasonably meet the needs of the resident. The bedroom shall have adequate accessible space for a resident’s wheelchair or other adaptive or prosthetic equipment. (Summarized from Wis. Admin. Code § DHS 83.54)

Met Unmet Not Applicable

Woodland Care CBRF is physically accessible.

Operational Distinction

The setting demonstrated meaningful operational distinction between the institution and the community-based setting, such as minimal administrative and financial interconnectedness.

Met Unmet Not Applicable

The Clark County Board Community Services Committee oversees the Clark County Rehabilitation and Living Center. Under the management and supervision of the executive director/administrator, the Woodland Care CBRF program director supervises and manages the assistant director, consultant nurse,

client services specialist and client services assistants. The CBRF budget, expenses and other financials are separate from the SNF and other on campus programs.

There is a distinction between staff for the HCBS setting and the institutional setting. Staff working in the HCBS setting receive initial and ongoing training on HCBS settings rule requirements and principles, and person-centered planning.

Met Unmet Not Applicable

Woodland Care CBRF staff is separate from SNF staff and the staff of other programs on campus. In addition to facility specific training, Woodland Care CBRF uses RELIAS training for client services assistants. In the orientation training, staff complete a specific list of trainings that include; “Protecting Resident Rights in Assisted Living Facilities” and “Introduction to Person-Centered Care in Assisted Living” training. Staff are also trained on policies related to resident rights, grievances, and the locks/knocking before entering/privacy policies. The trainings are also reviewed as part of the annual continuing education, in addition to others like, “Changing the Culture in Long Term Care,” which focuses on person-centered care and culture change, Empowering Residents through ADLs, “Preventing, Recognizing, and Reporting Abuse.” There is no cross training with staff at the SNF. All CBRF staff work only at Woodland Care CBRF.

DHS Recommendation

DHS finds that Woodland Care CBRF possesses the required home and community-based characteristics, is not isolating in nature, and overcomes the presumption of having institutional qualities.

Please note that these findings are preliminary only and must receive final approval from CMS.

In accordance with federal requirements, all compliance results will be made public by DHS. The decision will appear on the subsequent upload of facility information to DHS websites, including the [DQA Provider Search webpage](#) and the provider directories available at the [Consumer Guide to Health Care – Finding and Choosing an Assisted Living Facility webpage](#).

Ongoing Compliance

Wisconsin’s Division of Quality Assurance (DQA) will ensure through ongoing compliance reviews that Woodland Care CBRF continues to meet the requirements of the HCBS Settings Rule. The DMS Bureau of Assisted Living (BAL) has incorporated the HCBS settings rule into its current assisted living survey process and activities. ([DQA Implementation of Home and Community-Based Services Settings Rule in Residential Assisted Living Facilities](#))

Waiver agencies – managed care organizations (MCOs) and participant self-directed IRIS (Include, Respect, I Self Direct) consultant agencies – are certified by the Wisconsin Department of Health Services (DHS) and work within the requirements of contracts with DHS. State licensed settings are subject to unannounced licensing visits, both in response to complaints and during regular oversight visits, by the state licensing authority, or by the entity that certified the provider if not regulated by the state. As part of these periodic licensing or certification reviews, the credentialing entity will also review the setting for continued HCBS compliance. Providers will be required to address any HCBS rule deficiencies.

When HCBS participants are resident in the setting, waiver program care managers are required to have ongoing contact, including face-to-face visits, at which time any areas of concern would be identified and addressed. Each participant in a Medicaid home and community-based waiver program is further protected through the state’s long-term care ombudsman program, which has regular access to the assisted living setting. [Wisconsin’s Board on Aging & Long Term Care](#): The Board on Aging and Long Term Care advocates for the interests of Wisconsin’s long-term care consumers, informs those consumers of their rights and educates the public about health care systems and long-term care. The Board also operates the [Long Term Care Ombudsman](#), and [Volunteer Ombudsman](#) services.