

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
7500 Security Boulevard, Mail Stop S2-14-26  
Baltimore, Maryland 21244-1850



Disabled & Elderly Health Programs Group

April 10, 2019

Maureen Corcoran  
Director  
Ohio Department of Medicaid  
50 West Town Street, 4<sup>th</sup> Floor  
Columbus, OH 43215

**RE: Heightened Scrutiny Review of:**

- Consumer Support Services #1, 2414 Sunset Ave, Clark County, OH
- Consumer Support Services #2, 2416 Sunset Ave, Clark County, OH

Dear Ms. Corcoran:

This letter is in reference to settings submitted to the Centers for Medicare & Medicaid Services (CMS) for a heightened scrutiny review, in accordance with the federal home and community-based services (HCBS) regulations found at 42 CFR Section 441.301(c)(4)(5) and Section 441.710(a)(1)(2). Ohio submitted two 4-person group homes located in a cul-de-sac on the grounds of a publicly operated Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID) for heightened scrutiny review because the settings are located on the grounds of or adjacent to a public institution. Evidentiary packages were submitted by the state of Ohio to CMS for heightened scrutiny review on October 27, 2017.

CMS provided the state its initial "Summary of Findings" on June 8, 2018. The state provided its response to CMS on July 6, 2018. CMS appreciates the efforts of the state to provide comprehensive evidentiary packages regarding each setting's characteristics. Based on the information contained in the evidentiary packages specific to these settings, CMS concluded that the information submitted by the state for the heightened scrutiny review is sufficient to demonstrate that the settings do not have the qualities of an institution and have met all of the HCBS settings criteria. We have attached a Summary of Findings for each setting, which outlines the initial questions CMS raised and the state's responses that led to CMS' final determination.

CMS would also like to thank the state of Ohio for participating in the heightened scrutiny review pilot. Your participation in this review process has provided helpful and invaluable feedback and has helped CMS to identify a clear and concise way to provide the states feedback during the review process.

Thank you for your continued commitment to the state of Ohio's successful delivery of Medicaid-funded home and community-based services.

Sincerely,

Ralph F. Lofat, Director  
Division of Long-Term Services and Supports

## Heightened Scrutiny Summary of Findings

### Setting Information

Name of Setting: Consumer Support Services #1

Address: 2414 Sunset Ave, Clark County, OH

Type of Setting: Residential 4-person Group Home

HS Category: Settings are on the grounds of a publicly operated ICF/IID

Date Submitted: October 2017

Brief Description of Setting: One 4-person group home located on the cul-de-sac on the grounds of a publicly operated ICF/IID.

<b>Support Submitted by the State to Demonstrate Setting's Progress in Overcoming the Institutional Presumption</b>
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The state confirmed that there is no interconnectedness (i.e. administrative functions, personnel) between the publicly-operated ICF/IID and the setting in question.
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Each individual has his/her own bedroom, which is decorated according to the individual's unique preferences.
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There are two bathrooms (each one shared by 2 women), also decorated according to the tastes of the women sharing each bathroom.
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The home does not share management or staff with a second home in the cul-de-sac that is operated by the same provider. A third group home is located in the cul-de-sac, but is operated by a different provider.
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The personal interests of each individual living in the setting are reflected in their daily routines.
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Transportation into the community is offered by the provider. The majority of the residents also have family members in the community who help facilitate transportation.
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The provider has recently restructured its service provision model by adding a home manager to each setting location (rather than being assigned regionally) to allow for more timely responses to supporting external activities, schedules and services based on each person's unique needs and preferences to assure they are engaging in the broader community to the degree outlined in each individual's person-centered service plan.
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State compiled the following evidence to demonstrate the setting is integrated in and supports full access into the community by the individuals: on-site evaluation tool (including observations of interactions, and interviews with staff and guardians); photos of the interior of the setting and surrounding area; statements of support from legal guardians, local businesses and members of the community; staff training records that incorporate reviews of individual rights, person-centered planning, community integration and promoting individual choice.
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<b>Initial Determination</b>
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Evidentiary Package requires additional information before a final decision can be made.
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<b>Additional Information Requested To Confirm Setting is Compliant with the Federal HCBS Settings Criteria and has Overcome any Institutional Presumption:</b>
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CMS requests the State of Ohio provide the following:
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**Additional Information Requested To Confirm Setting Is Compliant with the Federal HCBS Settings Criteria and has Overcome any Institutional Presumption:**

- Attestation from the state through the review of person-centered service plans and/or interviews with individuals residing in the setting that the setting is selected by the individual from among a variety of setting options including non-disability specific settings [42 CFR 441.301(c)(4)(ii)].

Ohio Response:

In Ohio, presenting choice of service setting is the responsibility of the county board of developmental disabilities through the person-centered planning process. It is not the responsibility of the agency provider, Consumer Support Services. The Ohio Department of Developmental Disabilities monitors compliance with this requirement through the county board accreditation process outlined in Ohio Administrative Code 5123:2-1-02 (P). Statewide compliance in this area is reviewed quarterly with the Ohio Department of Medicaid during regularly scheduled reviews of all waiver-related performance measures.

The state confirmed through guardians of the individuals residing in the home that this setting was chosen from among other setting options provided.

CMS agrees that the state response is sufficient.

- Confirmation through a review of person-centered service plans and/or interviews with the individuals that the individuals had a choice in selecting their non-residential service providers [42 CFR 441.301(c)(4)(v)], and that the individuals have opportunities to seek employment and work in competitive integrated settings [42CFR441.301(c)(4)(i)].

Ohio Response:

In Ohio, presenting choice of service setting is the responsibility of the county board of developmental disabilities through the person-centered planning process. It is not the responsibility of the agency provider, Consumer Support Services. The Ohio Department of Developmental Disabilities monitors compliance with this requirement through the county board accreditation process outlined in Ohio Administrative Code 5123:2-1-02 (P). Statewide compliance in this area is reviewed quarterly with the Ohio Department of Medicaid during regularly scheduled reviews of all waiver-related performance measures.

The state confirmed during the on-site review and information provided by guardians that individuals were offered the opportunity to seek employment and work in competitive integrated settings. They have currently chosen not to do so, but will continue to have the option presented as part of the person-centered planning process. The state also confirmed through interviews that people were aware that the service and support administrator was available to assist with selecting from among any other qualified provider if a change in setting/provider was desired.

CMS agrees that the state response is sufficient.

- Confirmation through both review of the provider policies as well as via

**Additional Information Requested To Confirm Setting Is Compliant with the Federal HCBS Settings Criteria and has Overcome any Institutional Presumption:**

observational data collected by the state during the onsite visit that:

- Individuals' units have lockable entrance doors, with appropriate staff having keys to doors [42 CFR 441.301(c)(4)(vi)(B)(1)].
- Individuals have access to food at any time [42 CFR 441.301(c)(4)(vi)(C)] and are able to have visitors of their choosing at any time [42 CFR 441.301(c)(4)(vi)(D)] .

Ohio Response:

The state confirmed during the on-site review and through interviews with staff that the home has lockable entrance doors with appropriate staff having keys and that individuals have access to food and visitors at any time.

CMS agrees that the state response is sufficient.

- Verification through the person-centered plans and provider records that public transportation options were offered to all individuals, and clarification that all individuals either declined public transportation options or have modifications outlining why public transportation is not a suitable option [42 CFR 441.301(c)(4)(i) & 42 CFR 441.301(c)(4)(vi)(C)].

Ohio Response:

The state confirmed during the onsite review, as well as through quarterly reports provided by the agency provider that individuals were given the option of using public transportation. At this time, the individuals prefer to continue to receive transportation services through the provider agency and natural supports, in lieu of using public transportation.

CMS agrees that the state response is sufficient.

Ohio Department of Medicaid  
**HEIGHTENED SCRUTINY EVIDENCE PACKAGE**

**Setting Information**

Provider's Name Consumer Support Services (CSS) - Setting #1		
Location of the Setting Clark County, Ohio	Type of Setting Residential	Number of Individuals Served at the Setting 4
Waiver Services Being Provided at the Setting Homemaker/Personal Care, Transportation		

**Heightened Scrutiny Prong**

<input checked="" type="checkbox"/> Prong 1: Setting is in a publicly or privately operated facility that provides inpatient institutional treatment. <input checked="" type="checkbox"/> Prong 2: Setting is in a building on the grounds of, or adjacent to, a public institution. <input checked="" type="checkbox"/> Prong 3: Setting has the effect of isolating individuals from the broader community.
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**Recommendation**

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

**Section One**

**On Site Visit Observation**

Date(s) Conducted 5/16/16	State Agency that Conducted the On-Site Visit Ohio Department of Developmental Disabilities
<p><b>Description of the Setting</b></p> <p>The setting is a 4-person home that is located on a cul-de-sac on the grounds of a publicly-operated intermediate care facility for individuals with intellectual disabilities (ICF). The ICF is operated by the Clark County Board of Developmental Disabilities. The operation of 2414 Sunset Avenue is separate and distinct from the ICF. CSS is not affiliated with, nor does it share any administrative functions or personnel with the Clark County Board of Developmental Disabilities. There is no financial relationship between the ICF and this waiver setting.</p> <p>Also located on the cul-de-sac are two other 4-person homes in which people enrolled in HCBS waivers reside. One home is operated by the same provider. These two homes do not share management or staff. They operate independently of one another. The third home is operated by a different provider.</p> <p>The entrance is located off a residential street. There are no gates or signage that distinguish it from nearby settings. The home is located down a long driveway and is not visible from the street. The back yard of the home is adjacent to other homes in the neighborhood. There is a chain link fence that divides the property from adjacent homes. However, this is consistent with fencing around other private homes in the area.</p> <p>The interior of the home is nicely decorated and reflects the personal interest/style of the four people who reside there. Each person has her own bedroom. The décor of every room is unique, as chosen by the person who uses it.</p> <p>Four women reside in the home. Two women share a bathroom and the other two women share another bathroom. The bathrooms are located in the vicinity of their bedrooms and are also decorated to match the tastes of the people who use them. The bathrooms are accessible and are equipped with shower curtains and doors to ensure privacy. A third bathroom is located in an office that is used by staff. Medications and confidential files are stored in this area.</p>	

## Section Two

### Community Integration Observations and Input from Individuals, Family Members/Guardians, and Staff

During the site visit, two personnel from DODD had the opportunity to speak directly with one of the women who resides in the home. The other woman home at the time of the visit was unable to communicate with state personnel. However, the interactions between both women and staff were observed. The remaining two women who reside in the home were at work during the time of the visit.

The personal interests of each person are reflected in their daily routines. Two individuals work first shift at two different locations (TAC and Options) and two work second shift at TAC. The two women who work first shift have very different interests, and there is typically only one staff person on duty during the week. As a result, it is sometimes difficult for staff to arrange community-based activities during the week. However, the women do have access on the weekends.

In addition to supports by staff, two of the women access the community with family members. One individual returns home with family nearly every weekend. She also has the opportunity to spend time as she chooses without staff supervision. She was offered the opportunity to use public transportation, but declined. She prefers to be transported by staff or family. Another person participates in preferred activities with her sister a few times a year. She typically does not like to leave her home or being in noisy places. She does, however, enjoy spending time alone on her porch.

One of the women in the home has no legal guardian. She provided a statement that she is happy that she is now able to take her medication independently so that she can spend the night at her friend's house and has more freedom to be away from home.

One woman has a guardian through Advocacy and Protective Services, Inc. The guardian submitted a statement that she believes the person she represents has "excellent community integration." She is limited primarily from her limited resources and being unable to financially afford all the things she would prefer to participate in.

A third individual's mother, who is also her guardian, submitted a statement indicating that her daughter is "always out in the community doing something." She indicated that the four women in the home have become family to one another.

In addition to statements from individuals/guardians, three community members also submitted statements expressing their familiarity with the women who live in the home.

Interviews with staff revealed information about restructuring recently completed by the provider agency in an effort to enhance their person-centered approach to service delivery. A home manager is now assigned to each setting location, rather than being assigned regionally. This arrangement has resulted in more timely modifications to plans and services to meet each person's needs. In addition, CSS reimburses staff for any expenses incurred when supporting people with community access.

## Section Four

### Public Comments Summary

Public Comment Period

Tuesday, July 25 – Wednesday, August 23, 2017

Summary of Public Comments Received

Public input received will be incorporated at the conclusion of the public comment period.