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

Medicaid Benefits and Health Programs Group

October 9, 2024

Meghan Groen, Senior Deputy Director
Department of Health and Human Services
333 S. Grand Ave
P.O. Box 30195
Lansing, Michigan 48909

Dear Senior Deputy Director Groen:

This letter and attached report are in reference to a site visit conducted by the Centers for Medicare & Medicaid Services (CMS) from July 15-July 18, 2024. CMS visited several settings in Michigan that were recommended by advocates and the state as benefiting from a site visit, including settings identified by the state and/or stakeholders as having the qualities of an institution as outlined at 42 CFR § 441.301(c)(5) and 42 CFR § 441.710. Other settings were selected to ensure the site visit itinerary reflected a diversity of setting and service types. CMS also met with state officials, supports coordinators, people receiving Medicaid home and community-based services (HCBS) and service providers to hear directly about Michigan's strategy for implementing the regulatory criteria defining a home and community-based setting and how that strategy is carried out among the entities in the HCBS system.

CMS appreciates the efforts of the state to prepare for our visit to Michigan. We are asking the state to address the systemic findings described in this letter and the attached report and apply remediation strategies addressing the feedback contained in our report to the specific setting(s) as identified. We note that the HCBS settings criteria identified in the report that are followed by an asterisk require the state to go beyond ensuring that the individual setting has completed the necessary actions identified. Specifically, complying with person-centered planning requirements requires further direction to and collaboration with the entities responsible for developing and monitoring the person-centered service plans and with the HCBS provider community that is responsible for implementing services and achieving the objectives outlined in the plans. In addition, CMS notes that the state's remediation strategies must be applied to all remaining similarly situated settings you have identified as being presumptively institutional that were not included in CMS' site visit to ensure compliance with the settings criteria at 42 CFR § 441.301(c)(4) by the timelines detailed in your approved Corrective Action Plan (CAP). Finally, the state should ensure issues identified in this report are addressed in the state's overall assessment process of all providers of HCBS in Michigan, to ensure that all providers are being

assessed appropriately against the regulatory settings criteria and will implement the necessary remediation to achieve timely compliance.

As described more fully in the attached report, CMS notes below several areas where issues were found to exist across several setting locations, which raise systemic concerns that must be addressed by the state. Specifically, the following regulatory criteria located at 42 CFR 441.301(c)(4) were not found to be in practice:

- The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.
- The setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board. *
- The unit or dwelling is a specific physical place that can be owned, rented, or occupied 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. For settings in which landlord tenant laws do not apply, 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. *
- Individuals have the freedom to control their own schedules and activities and have access to food at any time.
- Any modification of the additional conditions, under §441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan. *
- Description of how staff are trained and monitored on their understanding of the settings criteria and the role of person-centered planning, consistent with state standards as described in the waiver or in community training policies and procedures established by the state.

Michigan’s Statewide Transition Plan (STP) described strategies to ensure that all providers of Medicaid HCBS have been assessed to meet the regulatory criteria and any needed remediation has been identified. The state’s practice for addressing the observations described in the attached report must align with the processes described in the STP and in the state’s CAP.

CMS requests that the state provide a written response providing updated information describing how the state will remediate both the process for developing and implementing the person-centered service plans and the issues identified in individual settings to ensure compliance with all of the settings criteria. CMS also requests a written response on how the

state will apply this feedback to the ongoing monitoring of person-centered planning functions and settings in the HCBS delivery system as noted above. CMS requests this information be submitted no later than November 9, 2024.

Upon review of this feedback, please contact Michele MacKenzie at (410) 786-5929 or michele.mackenzie@cms.hhs.gov if you would like to schedule a follow-up conference call with the CMS team to discuss next steps or request technical assistance.

Thank you for your continued commitment to the state of Michigan's successful delivery of Medicaid-funded HCBS.

Sincerely,

Curtis Cunningham -S

Digitally signed by Curtis Cunningham -S
Date: 2024.10.09 09:31:15 -05'00'

Curtis J. Cunningham, Director
Division of Long Term Services and Support
Medicaid Benefits and Health Programs Group

Enclosure

CMS Site Visit - Michigan
Systemic and Summary Review by Setting
Visit Dates: July 15-18, 2024

Site Visit Team:

CMS Representatives: Michele MacKenzie, Michelle Taylor
ACL Representative: Shawn Terrell
New Editions Representatives: Devon Mayer, Amy Coey, Vicky Wheeler, Trish Farnham

Introduction:

The site visit team visited eight settings: one skill-building and vocational non-residential setting (STEP); two assisted living settings (Close to Home and Burcham Hills); two small adult group homes (Samaritas Ducey and Benjamin's Hope); one large adult group home (Hope Network-Harbor Point Intensive East); one adult day care setting (Elizabeth's Place) and a non-residential setting providing Community Living Services (MOKA). The site visit team separated into two teams following the first visit at STEP. Team 1 consisted of Michele MacKenzie, Devon Mayer and Trish Farnham. Team 1 visited STEP, Close to Home, Samaritas Ducey and Elizabeth's Place. Team 2 consisted of Michelle Taylor, Shawn Terrell, Amy Coey and Vicky Wheeler. Team 2 visited STEP, Burcham Hills, Hope Network, MOKA, and Benjamin's Hope. The site visit team collectively visited two settings in eastern Michigan, four settings in western Michigan and two settings in central Michigan. The state had identified STEP as a presumptively institutional setting due to isolating characteristics and through their heightened scrutiny review attested to its remediation; Burcham Hills was identified by the state as presumptively institutional due to the setting being located in a building that also provides inpatient institutional treatment and was submitted to the Centers for Medicare & Medicaid Services (CMS) for a heightened scrutiny review. The state and stakeholders requested the site team visit Hope Network-Harbor Point Intensive East and Benjamin's Hope. Other settings were selected to ensure the site visit itinerary reflected a diversity of setting and service types.

Program Strengths:

As part of the HCBS Settings Rule assessment process, the Michigan Department of Health and Human Services (MDHHS) worked with the Bureau of Community and Health Systems and the Bureau of Fire Services within the Department of Licensing and Regulatory Affairs (LARA) to address issues related to licensing of Adult Foster Care homes and Homes for the Aged. Stakeholders raised questions about whether state licensing rules conflicted with the characteristics outlined under the HCBS Settings Rule. After reviewing the relevant laws and regulations, MDHHS and LARA have determined that the requirements under the HCBS Settings

Rule and state licensing rules are in alignment and developed joint guidance to deliver to providers. The site visit team recognizes this coordination among state agencies in the state's overall implementation of the HCBS Settings Rule.

Provider Strengths:

In addition to program strengths, the team observed provider/setting-specific practices that can inform the state's strategy in supporting HCBS Settings Rule compliance among all relevant providers.

Benjamin's Hope has a culture and training for staff that promotes dignity at all times, is person-centered, and focuses on only doing activities that are meaningful to the person being served. Benjamin's Hope has implemented a number of person-centered practices that facilitate discovery and continual learning about an individual. The site visit team specifically noted the setting's development of "Getting to Know You" videos. The team also noted the setting's use of an online app to support staff in documenting and sharing insights learned about each individual.

Burcham Hill's use of a two-page individualized summary of each individual served is well developed as a front-page supplement to the service plan. The site visit team found the setting's efforts to facilitate communication and information-sharing between individuals and their case managers to be noteworthy, particularly its capacity to update the service plan electronically with notes or observations.

Systemic Findings:

Supports Coordination Structure and Processes: The site visit team noted examples of an individual's setting also serving as the individual's case manager (also referred to as "supports coordinator"). This practice is inconsistent with federal regulatory conflict-free case management requirements. The team notes the state is currently examining this practice.

The site visit team did not observe evidence that supports coordinators consistently provide options for competitive, integrated employment or services that support community engagement to the full extent requested by the individual.

Supports coordinators for the MI Choice, MI Habilitation Supports Waiver (MI HSW) and the 1915(i) program noted that caseloads are large and often unmanageable, which complicates their ability to comply with the HCBS Settings Rule. MI Choice case managers noted having 40 primary clients and 40 secondary clients while the maximum caseload is 36. MI HSW case managers indicated caseloads can be as high as 57 but noted the maximum is expected to be between 30-35.

Person-Centered Service Plans (Service Plans): The site visit team reviewed service plans reflecting practices that did not meet the person-centered planning requirements of the HCBS Final Rule. The site visit team observed goals that were not based on the person's interest, such as: "[the individual] will be truthful on daily basis," and that a participant will "think before [she] speaks." In reviewing plans, many individuals had a goal of remaining healthy which was translated into limited activities such as getting a physical, sharing the results with the supports coordinator, getting a specified amount of exercise, and drinking a specified amount of water. Many service plans noted that people were to be monitored while working or eating, resulting in an imposition on the person without justification for the monitoring. The site visit team also noted that service plan goals did not always include action steps for supporting individual interests, particularly when those goals reflected a community-based interest. The team also reviewed goals that were general, with no clear follow up or further exploration of what is important to the person. For example, one goal indicated a person's desire to move to a different area of the country. There was no indication that there were follow-up questions or further exploration about what such a move means to the person, or what steps could be taken to help the person realize their goal. The response was limited to a general statement about going into the broader community. This dynamic was observed across multiple service plans and settings.

The service plans reviewed on-site for individuals under the MI Choice waiver had very little information about the individual or the individual's preferences. The scope of the service plan was limited to the services the individual would be receiving. There was no information about community integration activities. The site visit team reviewed MI Choice service plans that were incomplete, missing progress on goals, or the services required to implement a particular goal. The site visit team noted that service plan quality varied widely by case manager/support coordinator and by region. MI Choice case managers indicated the majority of information is contained in the assessment but does not carry over to the service plan.

Providers are frequently not invited to the person-centered planning meetings. The state noted a policy where the participant is the driver of who attends those meetings. However, it is important to assure the case manager is aware of all providers associated with the individual and has a conversation with the individual about the importance of including service providers in planning meetings in order to provide the individual with informed consent when deciding who to include in planning meetings. Providers should be assured of the state's policy that they can bill their attendance at planning meetings as indirect service time as this was a concern of the providers.

The site visit team notes the state's convening of its person-centered planning workgroup which may help remedy these findings. CMS reminds the state that federal technical assistance is available upon request.

Choice of Setting: The site visit team observed at multiple settings that service plans did not reflect the setting options offered to the individuals, including the offering of non-disability-specific setting options.

Modifications to the Additional Conditions of the HCBS Settings Rule: The site visit team observed practices in several settings that suggest the use of blanket restrictions, (modifications applied to all setting residents, regardless of individual need) which were then later integrated into individual service plans. As CMS has communicated in public guidance, blanket restrictions are not permitted under the HCBS Settings Rule. The site visit team also reviewed provider-specific documentation in which individuals acknowledged living in a home with blanket modifications as an accommodation for the housemate who specifically required them. In many cases it was unclear from the documentation provided that all the required steps in the modifications section of the HCBS Settings Rule were followed for each person. While some service plans described the modification, there was little documentation of required steps such as what else was tried, how the restriction is commensurate with assessed need, data collection, and what would need to change to lift the restriction.

Eviction Protections in Resident Care Agreement: State licensing rules require certain residential settings to use the BCAL-3266 Resident Care Agreement form, developed by the state's Division of Licensing and Regulatory Affairs (LARA). This form, when used in conjunction with a "Summary of Resident Rights: Discharges and Complaints," has been deemed by the state to meet the HCBS Settings Rule requirement under 441.301(c)(4)(vi)(A). However, in reviewing individual documentation at various settings, the second page of the document, which references the discharge and complaint process, was missing from the records reviewed leading to the inability to determine if the leasing criterion is being met.

On further review of the BCAL-3266, the document includes other statements that potentially impact the state's compliance with the HCBS Settings Rule. Examples include a generic reference to house rules and expectation that an individual summarily agrees to them, and a provision that looks to require the setting to manage individuals' funds.

Summary of Findings:

Although a distinct review of each setting is included in this report, the table below summarizes the findings for the entirety of the visit to Michigan and identifies the settings at which the site visit team noted issues that contributed to systemic findings.

Regulation Citation	Regulation Language	Setting Name
441.301(c)(4)(i)	The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.	STEP, Close to Home, Burcham Hills, Hope Network - Harbor Point Intensive East Unit, Samaritas Ducey, MOKA Life Skills
441.301(c)(4)(ii)	The setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board.	STEP, Close to Home Hope Network - Harbor Point Intensive East Unit, Elizabeth's Place

Regulation Citation	Regulation Language	Setting Name
441.301(c)(4)(vi)(A)	The unit or dwelling is a specific physical place that can be owned, rented, or occupied 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. For settings in which landlord tenant laws do not apply, 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.	Close to Home, Burcham Hills, Hope Network - Harbor Point Intensive East Unit, Samaritas Ducey
441.301(c)(4)(vi)(C)	Individuals have the freedom to control their own schedules and activities and have access to food at any time.	Hope Network - Harbor Point Intensive East Unit, Samaritas Ducey
441.301(c)(4)(vi)(F)	Any modification of the additional conditions, under §441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan.	Close to Home, Burcham Hills, Hope Network - Harbor Point Intensive East Unit, Samaritas Ducey, Benjamin's Hope #5

Additional Provision	Language	Setting Name
State Medicaid Director Letter #19-001[1]	Description of how staff are trained and monitored on their understanding of the settings criteria and the role of person-centered planning, consistent with state standards as described in the waiver or in community training policies and procedures established by the state.	STEP, Samaritas Ducey

Hope Network - Harbor Point Intensive East Unit, Adult Large Group Home (Adult Foster Care) – Visit Tuesday, July 16, 2024

Facility Description:

Hope Network is a specialized treatment, large adult group home located in Nunica. The setting is located in a rural area down a one-lane road. The setting is a large brick building sitting on seven acres of land, including a frisbee golf course. There are two units (east and west) and each unit mirrors each other and includes a dining area, a wing of rooms, activity room with a pool table and foosball table, gym, laundry room, a backyard with a basketball hoop, patio and smoking area. There is a locked commercial kitchen where food is prepared. The units are locked and there is a six-foot fence around the perimeter of each unit. The setting used to be a home for older adults and individuals with substance use disorder in the 1960s-1970s, so there are old, deactivated call lights. The setting serves adult men, with ages currently ranging from 18 into their 60s. There is no maximum age limit. Individuals are involuntarily placed at the setting through referrals made to the setting when eligible individuals are ready for discharge from a more restrictive environment such as jail, prison or from one of the three state psychiatric hospitals. Every individual who resides here is considered “high risk” and “high needs”. The individuals receive intensive behavioral and mental health assistance. Individuals are usually at this setting for an average of one year in hopes of transitioning to a less restrictive setting.

There are 12 bedrooms in each unit. Most rooms are private and very small (two rooms are shared rooms). Some have a bathroom, and some do not. There are shared bathrooms for the rooms without bathrooms, which have locks on them.

[1] Heightened Scrutiny SMD-SMDL Final (medicaid.gov); see question 10

All individuals served are under the 1915(i) SPA and receive community living services. The setting currently supports 14 residents in the east unit and 15 individuals in the west unit.

Site Visit Review Description:
The site visit team arrived at the setting in the morning. The team noticed several unmarked facility vans in the parking lot. The team was greeted in the lobby by the setting's residential treatment director and brought back to a large room, typically used for group therapy sessions and other group activities. The site visit team was joined by two state staff, the residential treatment director, clinical director, clinical supervisor, and the director of administration. The team had a lengthy discussion with the administration and then reviewed records and other documentation. The team then received a tour of the setting. During the tour, the team spoke to individuals residing in the settings and were invited into a couple of residents' rooms. During the tour, several individuals praised the staff for their work and how they were treated. There are town halls conducted every Friday with residents. There are at least three individual outings in the community each week. Each individual is paired with a staff member for 1:1 support during community activities. The provider created a comprehensive training presentation on the HCBS Settings Rule, and it is given to staff upon hire and annually. The provider also goes over rights monthly with staff.

Based on the setting's census, target population and service delivery structure, the site visit team noted the setting, when combined with the west wing of the physical facility, potentially has the characteristics of an Institution for Mental Disease (IMD). The state indicated the setting is not designated as an IMD.

Findings of Site Visit:

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
441.301(c)(4)(i)	The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.	There is no opportunity for competitive, integrated community employment because of the population served and the need for continual individualized supervision. The provider noted that if individuals were able to do work in the community, they would relocate to a less restrictive setting. Hope Network must ensure their model of service delivery aligns with the regulatory criteria to support participants' full access to the greater community. Hope Network should develop policies, practices and resources to ensure that individuals have full access to the greater community. Hope Network should ensure that individuals are informed of their choices for competitive, integrated employment.
441.301(c)(4)(ii)	The setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board.	Due to the nature of this setting, individuals are referred to this setting and placement is involuntary. Individuals being placed by court order is not a practice aligned with required choice of setting, including from among non-disability specific setting options. Service plans did not reflect an option of setting, or an option for a non-disability specific setting.

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
		The state Medicaid Agency and the entity that is responsible for ensuring the development of the person-centered service plan must ensure that individuals receiving Medicaid-funded HCBS are afforded a choice of setting, in compliance with regulatory requirements, including a choice of non-disability specific settings.
441.301(c)(4)(iv)	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.	Many doors within the setting are locked, including the front door and the door separating the wings. Individuals need staff assistance in unlocking the doors to move within the setting. Hope Network must ensure their model of service delivery aligns with the regulatory criteria to support participants' autonomy in making choices about daily activities.
441.301(c)(4)(vi)(A)	The unit or dwelling is a specific physical place that can be owned, rented, or occupied 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. For settings in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for	The resident care agreement is the state's Licensing and Regulatory Affairs (LARA) template. However, the template does not contain protections from eviction and due process. When the site visit team asked about this, the state indicated the second page of the agreement was not included and it contains that information. Hope Network must ensure that a lease, residency or other written agreement is in place for each individual and that the agreement provides

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
	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.	protections from evictions and appeals processes that are comparable to those in the jurisdiction's landlord tenant laws. Hope Network should revise the existing lease agreement to ensure it is a legally enforceable agreement that provides comparable protections against eviction as those provided under landlord/tenant law.
441.301(c)(4)(vi)(B)(1)	Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.	Due to the nature of the setting requiring supervision of all individuals, all staff are required to have keys to every living unit and every door. Hope Network must ensure that units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.
441.301(c)(4)(vi)(C)	Individuals have the freedom to control their own schedules and activities and have access to food at any time.	Individuals' daily schedules are developed by clinical staff in order to support continued treatment while placed at the residence. Hope Network must ensure their model of service delivery aligns with the regulatory criteria to support participants' ability to control their schedules and activities.
441.301(c)(4)(vi)(F)	Any modification of the additional conditions, under §441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan.	The site visit team notes the setting's practice of requiring individuals to use staff-managed lighters instead of managing their own. This practice was identified as a measure to prevent two specific

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
		individuals with a history of arson from accessing lighters inappropriately. Although modifications were thoroughly described in all individuals' service plans, the modification (to prohibit access to lighters) really only pertain to the two individuals. Hope Network should ensure that any relevant modifications for an individual are justified through their person-centered service plan, not developed through the provider Individual Service Plan (ISP), and that modifications to the settings criteria are limited only to a specific assessed need of the individual who needs the modification.

***CMS is available for technical assistance to the state.**

Samaritas Ducey, Specialized Adult Small Group Home (Adult Foster Care) – Visit Tuesday, July 16, 2024

Facility Description:

The setting is located in a residential area of Muskegon on a quiet neighborhood street. The setting is a single-story ranch and has a similar aesthetic to surrounding houses. The setting has a large yard, standard sized driveway and a fenced backyard. The setting's front door opens into the living room. Beyond the living room is a dining room and a door to the back yard. The kitchen is adjacent to the dining room. Off the kitchen is a room used by staff as an office, followed by a laundry room. The setting serves five individuals on the Habilitation Supports Waiver. There are four private bedrooms and one shared bathroom. The bedrooms contain minimal personalized items though the residents have all lived in the home for some time. The front door remains locked to prevent entry from the outside while people can exit from the inside.

Site Visit Review Description:

When the site team arrived, four of the five residents were home. The fifth individual was at day services. There were two direct support staff in addition to an interim supervisor. Two individuals were in the living room with the television on and two individuals

were sitting at the kitchen table. The team reviewed plans in the back yard with state staff, and two team members received a tour of the setting. Individuals have keys to their rooms; one individual was observed unlocking their door. In reviewing an individual's records, the site visit team reviewed both a coordination entity [the Community Mental Health Program] and a setting-sponsored form, confirming the individual's "right to choose the home you live in from various options" and confirming the individual's preference to live in the current setting "given the choices available to [the individual] at this time."

Findings of Site Visit:

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
441.301(c)(4)(i)	The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.	The provider indicated that a minimum of 3 people need to participate in an activity in order to take people out into the community despite the presence of multiple staff onsite at the time of the visit. One individual now attends day services due to the inability for staff to support his desired community access due to low staffing. One individual's record includes a recording of community outings the individual had participated in that month. None of the specific activities reflected as preferences in the service plan were listed. Samaritas Ducey must ensure their model of service delivery aligns with the regulatory criteria to support participants' full access to the greater community. Samaritas Ducey should develop policies, practices and resources to ensure that individuals have full access to the greater community.

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
441.301(c)(4)(vi)(A)	The unit or dwelling is a specific physical place that can be owned, rented, or occupied 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. For settings in which landlord tenant laws do not apply, 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.	State licensing rules require AFC homes to use the BCAL-3266 Resident Care Agreement form, which when used in conjunction with a "Summary of Resident Rights: Discharges and Complaints, has been deemed by the state to meet the Settings Requirements. However, in reviewing individual documentation at the setting, the second page of the document, the page that outlines the discharge and complaint process, was missing from the records reviewed. Samaritas Ducey must ensure that a lease, residency or other written agreement is in place for each individual and that the agreement provides protections from evictions and appeals processes that are comparable to those in the jurisdiction's landlord tenant laws. Samaritas Ducey should revise the existing lease agreement to ensure it is a legally enforceable agreement that provides comparable protections against eviction as those provided under landlord/tenant law.
441.301(c)(4)(vi)(C)	Individuals have the freedom to control their own schedules and activities and have access to food at any time.	The site visit team reviewed the service plan of an individual which noted the individual historically enjoyed attending church multiple times a week. When discussing the schedule for supporting an individual to attend church, program staff noted the

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
		individual was not attending and they were trying to persuade the individual to attend on Wednesday instead of on the weekend because they had to take at least two people, and it was more difficult to get people up on the weekend. Current staffing levels were cited as the reason for not being able to support this individual to attend church services he wishes to attend; individual activities are not supported. Samaritas Ducey must ensure their model of service delivery aligns with the regulatory criteria to support participants' ability to control their schedules and activities.
441.301(c)(4)(vi)(F)	Any modification of the additional conditions, under §441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan.	The records of an individual included a setting-drafted document titled the "HVBS [sic] Intake/Annual Compliance Form" which includes the following generic statement: "I understand that there is a restriction in my home due to health and safety needs of one of my housemates and I have chosen to live here." The state Medicaid Agency and the entity that ensures the development of the person-centered service plan should ensure that person-centered service plans that comply with all regulatory requirements are in place for each individual receiving Medicaid-funded HCBS. The entity responsible for the person-centered service plan

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
		should ensure that all modifications for a specific individual are incorporated into the plan and Samaritas Ducey must adhere to the plan. Samaritas Ducey should ensure that only modifications for an individual that are justified through their person-centered service plan, not developed through the provider ISP, are implemented and that modifications to the settings criteria are limited only to a specific assessed need as opposed to a blanket modification.

Additional Provision	Language	Violation Finding Based on Site Visit
State Medicaid Director Letter #19-001[2]	Description of how staff are trained and monitored on their understanding of the settings criteria and the role of person-centered planning, consistent with state standards as described in the waiver or in community training policies and procedures established by the state.	There was no evidence of HCBS Setting Rule Training in discussions with staff and in document reviews. Samaritas Ducey should ensure all employees have consistent and reinforced training on the HCBS settings regulatory criteria. In addition, this training should be incorporated into the daily activities and operations of the setting.

[2] Heightened Scrutiny SMD-SMDL Final (medicaid.gov); see question 10

Close to Home Assisted Living, Assisted Living Facility – Visit Monday, July 15, 2024

Facility Description:

Close to Home Assisted Living is an unlicensed assisted living located in a residential section of Bay City. The setting is close to a church, private homes, and a municipal park. The parking lot leads to a deck and the main entrance to the setting. There were no fences or gates that restricted access between the setting and the surrounding neighborhood. Inside the main entrance there are two large common areas that serve as dining and sitting areas, with an open floor plan and several large windows. These rooms are connected to the setting's kitchen and lead to additional sitting areas and to the residents' rooms. The setting is two stories, with stairways and an elevator leading to the second floor. All of the bedrooms, except two, are private, personalized rooms. The site visit team met with two individuals sharing a room who chose to do so, but it was unclear if an alternative had been provided.

The setting serves individuals both under private pay arrangements and through HCBS waivers. The setting currently supports 24 individuals on the MI Choice waiver. The setting serves adults and the ages of adults range widely.

Site Visit Review Description:

The site visit team arrived midday and noted several residents were sitting on the deck, talking and smoking. The site visit team observed individual residents moving freely from inside the setting to the outdoor space. The team was greeted by the setting's owner and site manager. There were a number of individuals of various ages sitting or moving through the main area. The setting staff provided a table in the eating area for the site visit team to review records. The team then received a tour of the setting, including the main, living areas, dedicated shower rooms and individuals' sleeping areas. During the tour, individuals approached the team and talked freely with site visit team members. During the tour, the site visit team witnessed individuals, several with mobility needs, moving throughout the setting, entering and exiting the setting and utilizing the elevator independently. The site visit team also identified evidence in documentation of the setting supporting individual choices and preferences. The setting schedules group community activities such as shopping, community events, and casino trips. Staff will develop a sign-up sheet, and individuals can sign up if they want. If there is a lot of interest, the setting will schedule a second opportunity. Staff will also assist individuals to engage in individualized community outings as requested. The visit closed with several brief, informal conversations with individuals and direct support workers.

Findings of Site Visit:

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
441.301(c)(4)(i)	The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.	There was no evidence that anyone had been provided the opportunity to seek employment, work in competitive integrated settings, or control their personal resources. Close to Home should ensure that individuals are informed of their choices for competitive, integrated employment, and the ability to control their finances and choose a community financial institution.
441.301(c)(4)(ii)	The setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board.	While state staff indicated that individuals and their representatives are provided options on where to receive services, including receiving services at their private homes, setting options were not identified or reflected in the plans reviewed. The state Medicaid Agency and the entity that is responsible for ensuring the development of the person-centered service plan must ensure that individuals receiving Medicaid-funded HCBS are afforded a choice of setting, in compliance with regulatory requirements, including a choice of non-disability specific settings.
441.301(c)(4)(iii)	The setting ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.	The setting has cameras in common areas but not in private rooms or bathing areas. The provider noted they keep digital recordings to help ensure safety. The MI Choice waiver does not include remote monitoring as a service available and there was no

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
		evidence that individuals had agreed to cameras in common areas of their home. Several individuals were observed to be in their beds with the door open. It was not clear if this was by choice or what other alternatives were available. The site visit team observed a photo/website blanket release form in which individuals gave broad permission to have photos of themselves posted on the setting's website. There was a scale in one of the main rooms and others would be able to observe people being weighed. Close to Home must ensure their model of service delivery aligns with the regulatory criteria to support participants' right to privacy, dignity, respect and freedom from coercion and restraint. Additionally, remote monitoring, when allowed by a state in the delivery of HCBS, should only be used as outlined in the state's HCBS program applications and ensure the privacy of all residents.

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
441.301(c)(4)(vi)(A)	The unit or dwelling is a specific physical place that can be owned, rented, or occupied 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. For settings in which landlord tenant laws do not apply, 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.	The Resident Care Agreement did not include any appeal rights. Close to Home must ensure that a lease, residency or other written agreement is in place for each individual and that the agreement provides protections from evictions and appeals processes that are comparable to those in the jurisdiction's landlord tenant laws. Close to Home should revise the existing lease agreement to ensure it is a legally enforceable agreement that provides comparable protections against eviction as those provided under landlord/tenant law.
441.301(c)(4)(vi)(F)	Any modification of the additional conditions, under §441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan.	In reviewing documentation at the setting, the site visit team noted a "House Rules" document included in several individual records. Several of these house rules would constitute blanket restrictions of HCBS Settings Rule criteria. Provider staff removed these when the document was brought to their attention, noting these house rules are no longer in effect. However, it is unclear if this recission has been fully communicated to the residents who received the house rules document.

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
		The state Medicaid Agency, and the entity that ensures the development of the person-centered service plan should ensure that person-centered service plans that comply with all regulatory requirements are in place for each individual receiving Medicaid-funded HCBS. The entity responsible for the person-centered service plan should ensure that all modifications for a specific individual are incorporated into the plan and Close to Home must adhere to the plan. Close to Home should ensure that any relevant modifications should ensure that only modifications for an individual that are justified through their person-centered service plan, not developed through the provider ISP, are implemented and that modifications to the settings criteria are limited only to a specific assessed need as opposed to a blanket modification.

Services to Enhance Potential (STEP), Skill building and vocational services – Visit Monday, July 15, 2024

Facility Description:

STEP is located in a mixed-use urban area of Detroit. The setting's building is surrounded by residential, industrial and commercial buildings. The building sits on a quiet street. The setting's surrounding street grid is connected by sidewalks that enable access to the larger community. The building is two-stories, with the provider only using one floor. The provider noted a desire to expand but is having difficulty with permits. There is a reception area, classrooms, administrative offices, meeting rooms, a large room with a small kitchen, tables and unused lockers (taped shut), and a large warehouse-style space in the back where individuals work and engage in activities. The setting serves approximately 398 individuals, under the Habilitation Supports Waiver or the 1915(i) SPA option. STEP

provides transportation to and from individuals' homes to the setting and to community activities. Some individuals take public buses or the Detroit People Mover. STEP provides mobility training for both train and streetcar systems. The setting is physically accessible. Provider staff indicate the setting does not accept individuals who require extensive hands-on assistance from staff.

Site Visit Review Description:
The team met with provider staff who gave the team an overview of the services provided at that location and other locations in the area. The provider has four resource centers that operate as hubs. The team received a tour of the setting and observed people leaving for an off-site cooking class, people in classrooms, and a large workshop area where people were working on various piece-work contracts. In the back of the workshop there was a smaller area where people worked to bale unsold clothing from the provider's thrift store, with the bales of clothing getting sold overseas. Work in this area pays minimum wage. The piece work is performed through a 14(c) certificate and includes preparing and packaging mattress covers and assembling and labeling spray bottles. If individuals are interested in competitive, integrated employment in the community, there are employment representatives that will assist the individual. The provider also manages a separate art gallery located in a separate building in the larger community. Setting staff indicate that individuals keep a competitive commission from their sales. Provider staff indicated group community outings are developed with input from individuals, citing satisfaction surveys. The site visit team directly observed individuals moving around the setting independently, including an individual using a wheelchair.

The director noted that the setting also serves as the supports coordination entity for some of the people to whom they provide services, while others receive support coordination from other entities.

Findings of Site Visit:

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
441.301(c)(4)(i)	The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.	A review of a service plan indicated that an individual's interest in working ("I want to work.") resulted in objectives related to working in a workshop. Another service plan noted the individual wanted to work but was worried about losing Social Security benefits. There was nothing noted about the potential for benefits counseling.

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
		Setting staff indicated that individuals with complex or high medical needs, those in wheelchairs or with ostomy bags, would not be able/capable to participate in fully integrated work as they would need to be fully independent to do so. Review of an individual's service plan indicates "I want to learn, and I want to try art." The resulting objective was participation in center-based art classes and the STEP-managed art studio, which is located in a separate, community-based building with other art studios. Review of an individual's service plan indicated an individual goal of "I like to go out." The resulting objective provided "two or more" outings a month. The setting develops learning opportunities, such as a culinary arts class, instead of directing efforts to establishing comparable opportunities in community settings, like community colleges. Provider staff noted that this is because community settings will not provide the same level of support that the setting does. Setting staff indicated that the setting does not provide 1:1 support because "no one wants to pay for it." The state indicated that 1:1 is available, and the provider could bill for it. STEP must ensure their model of service delivery aligns with the regulatory criteria to support participants' full access to the greater community.

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
		Establishing partnerships with community resources should be explored. STEP should develop policies, practices and resources to ensure that individuals have full access to the greater community. Additionally, the setting should ensure that individuals are informed of their choices for competitive, integrated employment. Finally, the setting should not rely on reverse integration activities to bring the community into the setting.
441.301(c)(4)(ii)	The setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board.	The setting selection process was not clear and did not fully reflect how the individual selected the setting from other options, including non-disability specific settings. The state Medicaid Agency and the entity that is responsible for ensuring the development of the person-centered service plan must ensure that individuals receiving Medicaid-funded HCBS are afforded a choice of setting, in compliance with regulatory requirements, including a choice of non-disability specific settings.

Additional Provision	Language	Violation Finding Based on Site Visit
State Medicaid Director Letter #19-001[3]	Description of how staff are trained and monitored on their understanding of the settings criteria and the role of person-centered planning, consistent with state standards as described in the waiver or in community training policies and procedures established by the state.	The state offered two opportunities for training on the HCBS Settings Rule, and the setting administrator attended them. Direct support staff did not attend this state-sponsored training, and the site visit team was not informed of any other training direct support staff have received on the HCBS Settings Rule. STEP should ensure all employees have consistent and reinforced training on the HCBS settings regulatory criteria. In addition, this training should be incorporated into the daily activities and operations of the setting.

Burcham Hills, Assisted Living Facility – Visit Monday, July 15, 2024

Facility Description:

Burcham Hill is an assisted living facility located in East Lansing. The campus includes independent living, assisted living, and skilled nursing. This setting was submitted to CMS for heightened scrutiny review due to the setting being located in a building that also provides inpatient institutional treatment. The assisted living and skilled nursing facility are in the same building on separate hallways/wings. The independent living section of campus comprises individual condos that are not attached to the assisted living and skilled nursing facility building. The provider mentioned that the setting has a partnership with Michigan State University and some students work at Burcham Hill. It is situated within a populated residential urban area near downtown shopping and the university campus. The Burcham Hills campus is privately owned and operated. The setting does not share staff or services with the skilled nursing facility. The assisted living setting has studio, 1-bedroom, and 2-bedroom apartments and all include private bathrooms. Inside the main entrance there is a large seating area with chairs, television, and fireplace. There is also a fish tank in the lobby area. The main dining area is called the scenic dining room and has floor to ceiling windows that look out to the courtyard between the assisted living and independent living facilities that includes art sculptures, Koi pond, seating areas, and a playground. The setting has five floors, four of which include resident rooms; each floor has three wings. There are two elevators that can be used. There are two

[3] Heightened Scrutiny SMD-SMDL Final (medicaid.gov); see question 10

bathrooms in the main lobby that lock. There is an auxiliary dining area located on the fourth floor if individuals desire to eat there. There is a wellness center (fitness room), salon, and library.

The setting serves individuals both under private pay arrangements and through HCBS waivers. The setting currently supports 118 total residents and 4 of those individuals are on the MI Choice waiver.

Site Visit Review Description:
The site visit team arrived midday. Several residents were sitting on a bench out front, talking to each other. The team signed in and received visitor name tags. The site visit team observed residents move freely from inside the setting to the outdoor space. The team was greeted by the setting's administrator. The site visit team was met by one state staff member and were brought into a conference room where the team could review records and other documentation. There was a service plan developed by the waiver agency and then the provider had a two-page document that provided a summary about the individual. The support coordinators come to the setting to conduct planning meetings, and the provider is invited to be part of the meetings. The provider is given a copy of the service plan developed by the waiver agency. The team spoke to the administrator and two other staff members. The team then received a tour of the setting. During the tour, the team spoke to individuals as they were enjoying a cocktail hour, where several individuals were sitting, talking and enjoying a drink of their choice, including alcoholic options. The team were also invited into a couple of residents' rooms to speak with them. Individuals can go wherever they want and interact with whomever they want. Visitors are welcome at any time and overnight guests are allowed. There is a guest suite, and it was in use during the site visit tour. Unit doors have locks on them and individuals have keys to their room. All rooms are single, except for two-bedroom units, shared by married couples.

Findings of Site Visit:

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
441.301(c)(4)(i)	The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.	There are group community outings offered once per week. Through an interview, an individual noted the desire to travel to their hometown to attend a club reunion and visit old friends. Additionally, they wanted to attend church and reconnect with a family member who lived locally. They indicated asking to participate in these activities, but the activities had not been coordinated/arranged, nor were they part of their service plan. Burcham Hills must ensure their model of service delivery aligns with the regulatory criteria to support participants' full access to the greater community. Establishing partnerships with community resources and leveraging existing community transportation options should be explored. Burcham Hills should develop policies, practices and resources to ensure that individuals have full access to the greater community.

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
441.301(c)(4)(vi)(A)	The unit or dwelling is a specific physical place that can be owned, rented, or occupied 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. For settings in which landlord tenant laws do not apply, 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.	There was no due process or protection from eviction noted in the lease agreement. Burcham Hills must ensure that a lease, residency or other written agreement is in place for each individual and that the agreement provides protections from evictions and appeals processes that are comparable to those in the jurisdiction's landlord tenant laws. Burcham Hills should revise the existing lease agreement to ensure it is a legally enforceable agreement that provides comparable protections against eviction as those provided under landlord/tenant law.

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
441.301(c)(4)(vi)(F)	Any modification of the additional conditions, under §441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan.	One individual the site visit team spoke with had a wander-guard and this was not in their plan. They noted being unaware of the purpose for the wander-guard. The state Medicaid Agency, and the entity that ensures the development of the person-centered service plan should ensure that person-centered service plans that comply with all regulatory requirements are in place for each individual receiving Medicaid-funded HCBS. Burcham Hills should ensure that any relevant modifications should ensure that only modifications for an individual that are justified through their person-centered service plan, not developed through the provider ISP, are implemented and that modifications to the settings criteria are limited only to a specific assessed need as opposed to a blanket modification. The entity responsible for the person-centered service plan should ensure that all modifications for a specific individual are incorporated into the plan, and Burcham Hills must adhere to the plan.

Elizabeth's Place, Adult Day Care – Visit Wednesday, July 17, 2024

Facility Description:

The setting is in a mixed residential/commercial section of town. The setting is located in the basement level of a church. The setting can be accessed by stairs or an elevator. The team rang the doorbell to be let in. Upon entering the setting there is a main desk with a calendar and names of people expected to attend and their projected schedules by day. The large room has tables and chairs on one

side and a television with chairs and couches on the other side. There are tables set up with different activities such as puzzles and crafts. The kitchen is off this room and is open. Down the hall there is a dining room with two refrigerators and a microwave. Across the hall there is a room with a bed and chairs that can be used for private meetings with guests or to relax. Outside there was a garden with raised garden beds. There are eight MI Choice HCBS participants who receive services in this setting.

Site Visit Review Description:

The team was met by state staff and greeted by the setting director. The team went downstairs and was led to the dining room to review plans. After the reviews the team received a tour. People come on a varied schedule. The team observed people engage in their preferred activities upon arrival. Interviews confirmed people got out into the community based on their preferences; going where they like and participating in the community to the extent they wanted to. Individuals had access to the kitchen and to the refrigerators and microwave in the dining room where their lunches were stored. If people don't bring food, the staff will provide them with a meal or snacks. The team observed the staff treating people respectfully during the visit, with one individual noting that setting staff and other participants "feel like family." Staff appeared to be knowledgeable about the settings criteria.

Findings of Site Visit:

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
441.301(c)(4)(ii)	The setting is selected by the individual from among setting options including non-disability specific settings. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences.	There were no settings options listed in the service plans. One individual interviewed shared that they learned about the setting and came to visit before selecting the setting. The state Medicaid Agency and the entity that is responsible for ensuring the development of the person-centered service plan must ensure that individuals receiving Medicaid-funded HCBS are afforded a choice of setting, in compliance with regulatory requirements, including a choice of non-disability specific settings.

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
441.301(c)(4)(iii)	Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.	Upon entering the setting there is a main desk with a calendar and names of people expected to attend and their projected schedules by day. Elizabeth's Place must ensure their model of service delivery aligns with the regulatory criteria to support individuals' right to privacy, dignity, and respect

MOKA Life Skills, Group Community Living Services – Visit Wednesday, July 17, 2024

Facility Description:

The setting is located in Wyoming, MI in a mixed residential/commercial section of town. MOKA's Group Community Living Supports Program provides support for adults (18 years and older) with intellectual and developmental disabilities. The front door is locked. The team was let in by the administrator. Upon entering the setting there is a small lobby to the left with a bathroom that locks. If individuals need assistance to use that bathroom, a staff member will escort them. The site visit team was then led into the main building that before COVID was used for MOKA's office space and has cubicles set up in the center of the room. There are several other conference rooms used for gatherings. The cubicle area is now used by individuals when they need a quiet space to be alone and this was observed during the site visit. There is a kitchen that is used for their culinary program and bathrooms down the hall that individuals can go to freely. There are unmarked black vans that belong to the facility for use for community outings and pick-up and drop-offs at their homes. The setting was observed to be physically accessible.

The site visit team observed that the setting serves as a "landing point" before and between individuals going out to the community. Provider staff indicated individuals are in the community about 90% of the time. Some of the activities include going to the library, YMCA, zoo, Dollar Tree, White Caps baseball games, grocery stores, etc. Individuals have the choice of attending the program each day.

There are eight individuals receiving the life skills services. There are other groups there as well. The staff are referred to as mentors. The ratio of mentors to individuals in each group is very small. MOKA provides community living services under MI's 1915(i) SPA

and its Habilitation Supports Waiver. There are about 70-75 people among all their groups, and all are enrolled in Medicaid HCBS programs.

Site Visit Review Description:

The team was let in by the setting director and met by state staff in the small lobby. The team was led into the main space and spoke to the director. There were individuals walking about and preparing for their activity for the day, so informal conversations were held with the site visit team before they headed to the grocery store to shop for the ingredients needed for their lunch. The team met in one of the conference rooms and reviewed plans and other documentation. The service plans reviewed at the setting were comprehensive but differed from case management agency to case management agency. The provider did not have a separate plan; provider-specific content was integrated into the case management agency service plans. The service plans show that they ask about employment options. Once the documentation review was completed, the site visit team went on a tour and talked to a mentor and the group of individuals that got back from the grocery store. They were in the middle of preparing their taco lunch.

Findings of Site Visit:

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
441.301(c)(4)(i)	The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.	While the setting's support model prioritizes community integration, sponsored activities remain congregate, therefore limiting the individuals' ability to access their communities to the same degree as individuals not receiving HCBS. MOKA must ensure their model of service delivery aligns with the regulatory criteria to support participants' full access to the greater community. MOKA should develop policies, practices and resources to ensure that individuals have full access to the greater community.

Benjamin's Hope #5, Adult Small Group Home (Adult Foster Care) – Visit Wednesday, July 17, 2024

Facility Description:

The setting is located in Holland. Benjamin's Hope is a farmstead community serving adults with intellectual and developmental disabilities. The farmstead is over 52 acres and includes a barn, garden, community center, playground, trails, "Zen room," gym, shop that sells items they grow and make, and six homes. The farm includes alpacas, goats, chickens, etc. that individuals visit and take care of. Each home on the property is individually leased. Each home can have up to six individuals living there, but most do not have that many. The team visited House #5 which has six residents. Two people have their own suites and there are two suites that are shared. All suites have a private bathroom. The homes are spacious and open concept with high ceilings, kitchen, dining room, living room with TV, garage, large pantry that everyone can access, and a backyard. Some homes are co-ed. Each home has one to two facility vans and golf carts. The community uses many golf carts to get around the farmstead. To get referred to the setting, the county determines eligibility, and the support coordinator contacts the provider. The homes are staffed 24-hours, and the staff are awake at night. The community center serves as a hub where individuals meet in the morning to figure out what they want to do. The setting provides access for individuals to participate in a lot of volunteering opportunities in the community. They have collaborations and volunteer at the Hope College and Community Action Hub which is a family resources center.

There are 32 men and women who reside on the farmstead. This is a 1915(i) SPA adult small group home. There are 120 staff members in the whole program, who are referred to as "sidekicks" and the staff to individual ratio is 1:1 or 1:2.

Site Visit Review Description:

The team drove up to the large community center and parked in the parking lot. A couple of administrators and one resident were in the lobby as the site visit team arrived. Once the state and site visit team all arrived, the team was led into a meeting space to talk to administration and review person-center service plans and other documentation. The resident agreement has protections for termination/eviction and has due process. The setting has the LARA template seen at other settings, but the provider noticed the protections were missing so they created a second page that included discharge and complaints information. Throughout the meeting, individuals being served popped in to speak with the team. There were individuals freely moving around the farmstead as they pleased and joined in informal conversations with the site visit team. After the document review and conversations, the site visit team received a tour of the community center first and then took a tour of the whole farmstead in golf carts. During the tour, the team was able to see individuals coming and going off the campus, doing various jobs in the barn, coming and going from their home. The rooms were observed to be decorated fully to the individuals' preferences and the setting was observed to be accessible. The team was able to speak to many individuals receiving services, and sidekicks.

Findings of Site Visit:

Regulation Citation	Regulation Language	Violation Finding Based on Site Visit
441.301(c)(4)(vi)(F)	Any modification of the additional conditions, under §441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan.	The site visit team noted that individual modifications were not always reflected in the individual's service plan. The state Medicaid Agency, and the entity that ensures the development of the person-centered service plan should ensure that person-centered service plans that comply with all regulatory requirements are in place for each individual receiving Medicaid-funded HCBS. Bejamin's Hope should ensure that any relevant modifications should ensure that only modifications for an individual that are justified through their person-centered service plan, not developed through the provider ISP, are implemented and that modifications to the settings criteria are limited only to a specific assessed need as opposed to a blanket modification. The entity responsible for the person-centered service plan should ensure that all modifications for a specific individual are incorporated into the plan and Benjamin's Hope must adhere to the plan.