

**Summary of HI Soaring Eagle Ranch Adult Residential CMS Home and Community Based Services (HCBS) Settings Rule Site Visit**

**September 16, 2022, by Kathryn Good, Program Administrator and Erica Reiner, Program Administrator.**

HI Soaring Eagle Ranch (HSER) is a Basic Care Facility that specializes in providing care to individuals with traumatic brain injuries. The setting is a non-secured facility that is accessible and located in a residential area with access to provider owned or public transportation. The setting is located in the country near Valley City. A google map, organization chart, Basic Care License, Medication error reporting policy is included in the Evidence Package.

HSER capacity is 10 with 7 residents presently and 7 on Medicaid.

Technical assistance was provided through email as well as by Microsoft Teams conferences on 06/21/2022 and 02/09/2023, to provide education regarding the Home and Community Based Services Settings requirements published in the Federal Register on January 16, 2014. An assessment tool was developed by the state that was based on the settings criteria and the exploratory questions provided by CMS. State staff utilized, ND Administrative Code Chapter 33-03-24.1 Basic Care Facilities, ND Century Code Chapter 50-10.2 Rights of Health Care Facility Residents, Adult Residential Care Policy 525-05-30-16, and Chapter 75-03-23 Provisions of Home and Community Based Services Under the Medicaid Waiver For the Aged and Disabled Program as resources to provide education during the call.

The assessment tool was completed, and the State then provided a written summary of suggestions and areas that needed change to come into compliance. The State provided further technical assistance upon request and the provider submitted an evidence package to the State to prove compliance with setting requirements.

September 16, 2022, the state made an onsite visit to tour the facility, review policies and procedures, observe client care, and staff interactions. State staff met with the consumers that were on-site at time of visit. The State conducted a care plan review prior to the onsite visit. Phone/email surveys were conducted with the Medicaid consumer’s legal decision maker or the consumer to assess the consumers experience living in the setting. Survey questions focused on the quality of the individual’s experiences, integration into the broader community, options for choice in where to live, ensuring the individuals rights of privacy, dignity, and respect, freedom from coercion and restraint, ensuring the individual has initiative, autonomy, and independence in making choices to include but not limited to activities, cares, and services along with who provides them.

<b>HCBS Settings Requirements</b>	<b>Review of Facility</b>
<b>Facility is selected by the individual from among settings options including non-disability specific settings and an option for a private unit in a residential setting.</b>	The facility is open for tours prior to a decision to reside in the facility. There are other options for residential services in the area to choose from. The facility is ADA accessible. A legally enforceable agreement following ND landlord tenant laws. There are no cameras in the facility.

	<p><b>Supporting Documentation:</b></p> <ul style="list-style-type: none"> <li>• Lease Agreement</li> <li>• Site Visit and Observation by state staff summary</li> <li>• Survey with consumer and legal decision maker</li> </ul>
<p><b>Provides opportunities to seek employment and work in competitive integrated settings, engage in community life, and control personal resources.</b></p>	<p>All consumers at the facility are currently employed. Consumers can continue employment or volunteering based on their person-centered goals. The consumer, power of attorney, or family control finances, however, their money is locked in the office and the consumer may ask for their money when going on an outing. This is documented as a restriction in the person-centered plan and is reviewed every six months by the human rights committee. Engaging in community life is addressed below.</p> <p><b>Supporting Documentation:</b></p> <ul style="list-style-type: none"> <li>• Resident Handbook</li> <li>• Survey with consumer and legal decision maker</li> </ul>
<p><b>Is integrated in and supports access to the greater community</b></p>	<p>Activities and events are routinely discussed with the consumers to inform consumer and family of activities within the facility or in the community. The family/natural supports are encouraged to take the consumer out into the broader community. This was noted at the site visit. The consumer can utilize the internet or paper to determine activities outside of the facility. The facility requests an email address to assist in notifying the consumers families and friends of upcoming events and activities.</p> <p>Public Transportation is available as well as transportation by the facility.</p> <p>Several admission forms are filled out to determine the likes and dislikes of the consumer to assist staff in the individualized care of the consumer. Monthly Activity Participation logs and outing information are kept for residents and reviewed at quarterly care conferences to determine community integration needs and restrictions. The person-centered plan of care is individualized for each consumer.</p> <p>Everyone accesses the building and units the same way. There are no codes or locks on the entrance doors.</p> <p>Consumers are welcome to use the patio or walk around</p>

	<p>in the yard as they wish.</p> <p><b>Supporting Documentation:</b></p> <ul style="list-style-type: none"> <li>• Resident Handbook</li> <li>• Person Centered Plan</li> <li>• Survey with consumer and legal decision maker</li> <li>• Site Visit and Observation by state staff</li> </ul>
<p><b>Optimizes individual initiative, autonomy, and independence in making life choices</b></p>	<p>There are no visiting hours and guests can stay overnight. There is a voluntary check in and out process to ensure safety and accountability in an emergency or fire.</p> <p>The Resident Handbook under Resident Rights states the resident has the right to choose who gives them care, how they are approached, choose all aspects of their care and right to determine schedule for waking, bathing, eating and activity participation. The interview with the consumer’s legal decision maker indicated knowledge of these rights.</p> <p>Food is prepped in the kitchen. Consumers assist with meal prep, cooking and clean up after meals. The doors to the fridge and cupboards are locked. Due to this rights restriction, there are notes from medical providers, power of attorneys, consumers as well as daily documentation to support the rights restrictions in place. These rights restrictions will be documented daily and reviewed with the HCBS case manager every 90 days to determine if the restriction is still needed or must be removed.</p> <p>No disposable plates and silverware. No protective coverings used. Consumers had choices of food. Consumers are able to ask staff for a snack at anytime and staff will assist in order to monitor for safety.</p> <p>Consumers do their own laundry and staff assist as needed.</p> <p><b>Supporting Documentation:</b></p> <ul style="list-style-type: none"> <li>• Resident Handbook</li> <li>• Site Visit and Observation by state staff</li> <li>• Survey with consumer and legal decision maker</li> </ul>
<p><b>Ensures an individual’s rights of privacy, respect, and freedom from coercion and restraint</b></p>	<p>The Medicaid consumers have private apartments with lockable doors and each hallway has a bathroom with a lockable door.</p> <p>Couples are not required to share an apartment.</p>

	<p>Consumers can furnish and decorate their unit as desired. Observation reflected consumer's own personal tastes in decorating their private living quarters.</p> <p>Areas were available if a consumer wished to have a private conversation with family or friends.</p> <p>Consumers have access to a phone to receive or make private phone calls. Staff can assist residents in making phone calls when they are requested, and families are encouraged to purchase long distance phone cards if they need to make long distance calls.</p> <p>Mail is hand delivered to the resident. TV is available in the living room. Staff training includes Resident Rights and topics of dignity and respect.</p> <p>Medications are given in private.</p> <p>Observed the staff knocking on the door before entering the room.</p> <p><b>Supporting Documentation:</b></p> <ul style="list-style-type: none"> <li>• Resident Handbook</li> <li>• Complaint/grievance policy is included in the Admission Packet. Ombudsman poster by the entrance door.</li> <li>• HIPAA Notice of Privacy Practices is included in the Admission Packet.</li> <li>• Site Visit and Observation by state staff</li> <li>• Survey with consumer and legal decision maker</li> </ul>
<p><b>Facilitates individual choice regarding services and supports and who provides them</b></p>	<p>The consumer has a choice in who cares for them.</p> <p>The facility provides the consumer information regarding filing a grievance.</p> <p>Consumers go out in to the community for all church services, hair appointments and other services they wish to utilize.</p> <p>Consumer medical care is provided per own preference.</p> <p><b>Supporting Documentation:</b></p>

	<ul style="list-style-type: none"> <li>• Resident Handbook (Includes list of services outside of facility)</li> <li>• Resident Rights Booklet</li> <li>• Site Visit and Observation by state employees</li> <li>• Survey with consumer and legal representative</li> </ul>
<b>Ensures the individual receives services in the community to the same degree of access as individuals not receiving Medicaid HCBS</b>	<p>All consumers are treated the same.</p> <p>The consumer can access the broader community for services if desired.</p> <p><b>Supporting Documentation:</b></p> <ul style="list-style-type: none"> <li>• Resident Handbook</li> <li>• Resident Rights Booklet</li> <li>• Site Visit and Observation by state staff</li> <li>• Survey with consumer and legal representative</li> </ul>
<b>Person-centered service plan</b>	<p>HSER has developed a care plan to include behaviors, restrictions, and methods that have been tried before. Clients' goals, values, beliefs, and how the client would like to live are reviewed and goals established. Community Integration and social supports are reviewed to determine options available for the client. Level of family support and involvement is reviewed. Care planning includes health care needs, nutrition needs, and mental health needs. Employment, volunteering options, behavior, cognitive, and safety are reviewed at the quarterly meetings.</p> <p>The monthly participation logs are reviewed to ensure community integration and activities.</p> <p><b>Supporting Documentation:</b></p> <ul style="list-style-type: none"> <li>• Person Centered Care Plan Review by State staff</li> <li>• HSER Care Plan review</li> <li>• HCBS Care Plan review</li> </ul>

<b>Additional Requirement for HCBS Residential Settings—Any modifications to these must be supported by a specific assessed need and justified in the person-centered service plan.</b>	
<b>The individual has a lease or other legally enforceable agreement providing similar protections</b>	<p>The consumer or legal decision maker signs a lease agreement when the decision has been made to move into the facility. The lease follows ND landlord tenant laws.</p> <p><b>Supporting Documentation:</b></p> <ul style="list-style-type: none"> <li>• Lease Agreement</li> </ul>
<b>The individual has privacy in their unit including lockable doors, choice of roommates and freedom to furnish or decorate unit</b>	<p>At the site visit it was observed the units are private with lockable doors. The Medicaid consumer had a private unit. The consumer had pictures on the wall and unit was</p>

	<p>furnished according to the desire of the consumer or family. The consumer is encouraged to decorate their apartment to reflect personal taste, hobbies, and interest.</p> <p><b>Supporting Documentation:</b></p> <ul style="list-style-type: none"> <li>• Resident Handbook</li> <li>• Lease Agreement</li> <li>• Site Visit and Observation by state staff</li> <li>• Survey with consumer and legal decision maker</li> </ul>
<p><b>The individual controls his/her own schedule including access to food at all times</b></p>	<p>If a menu is not acceptable, another choice will be offered. There is assigned seating that the consumer chooses and routinely change. Snacks are available throughout the day but they need to ask staff to retrieve. Any restriction related to access to food are included and justified in the person-centered plan and are reviewed by the Human Rights Committee at the facility.</p> <p>The Resident Handbook under Resident Rights states the resident has the right to choose who gives them care, how they are approached, choose all aspects of their care and right to determine schedule for waking, bathing, eating and activity participation.</p> <p>The interview with the consumer’s legal decision maker indicated knowledge of these rights.</p> <p><b>Supporting Documentation:</b></p> <ul style="list-style-type: none"> <li>• Resident Handbook</li> <li>• Site Visit and Observation by state staff</li> <li>• Survey with consumer and legal decision maker</li> </ul>
<p><b>The individual can have visitors at any time</b></p>	<p>Overnight guests allowed and there are no designated visiting hours.</p> <p><b>Supporting Documentation:</b></p> <ul style="list-style-type: none"> <li>• Resident Handbook</li> <li>• Survey with consumer and legal decision maker</li> </ul>
<p><b>The setting is physically accessible</b></p>	<p>The setting is in a residential area located outside of Valley City on a ranch. The setting is ADA accessible.</p> <p><b>Supporting Documentation:</b></p> <ul style="list-style-type: none"> <li>• Site Visit and Observation by state employees</li> </ul>

**HCBS Setting Requirements establish an outcome-oriented definition that focuses on the nature and quality of individuals experiences. The requirements maximize opportunities for individuals to have access to the benefits of community living and to receive services in the most integrated setting.**

Prior to September 16, 2022, state staff conducted phone and email interviews depending on the power of attorney's preference. The interview revealed the family had a choice when making the decision to move the consumer to HSER.

The family helps to meet the consumers community integration needs, when possible, but HSER provides a majority of the supports to integration. They accompany the consumer on weekly lunch outings, go to concerts, takes drives, and help their family member get to medical appointments. The consumer participates in activities inside the facility as chosen by the consumer. The family member interviewed stated the facility does not prevent the consumer from coming and going but they do need to have an escort.

The consumer's legal representative manages the consumers finances. The consumers do keep some money locked up in the office at the facility that they can ask for when they go to town. The legal representative and other family members are happy with the facility as the consumer is getting good care, the family can visit when they want, the consumer is engaged in activities.

The interviewed family member states the consumer can get up when desired but eats meals and snacks at scheduled times. The family member/power of attorney is happy with the restricted access to food due to health and safety needs of the consumer.

The family member stated that the consumer does not have to adhere to a set schedule of waking, bathing etc. and that these activities are completed based on the consumers preference.

The apartment can be decorated as desired. The bedroom door has a lock. Each hallway has a bathroom that locks. The consumer can have a television or phone.

The consumers and family members interviewed feel this is a safe plan. The consumers get along with the staff. The staff interacts in a dignified manner. The family members interviewed indicates knowledge of how to submit a grievance and that this can be done anonymously. The family members interviewed knows who the case manager is and participates in care planning.

**HCBS Settings requirement: The Person-Centered Service Plan must be developed through an individualized planning process. It must be driven by the individual. Should include people chosen by the beneficiary and/or beneficiary's representative, which may include a variety of individuals that play a specific role in the beneficiary's life. Must be able to direct the process to the maximum extent possible.**

<b>Must be timely and occur at times/locations convenient to all involved.</b>	Power of Attorney for consumer stated that the care planning process is held at a convenient time and location, or by phone. The POA knows that the consumer and family can invite anyone they choose.
<b>Reflects cultural considerations/uses plain language</b>	Yes
<b>Discusses individual preference for community integration within and outside the setting.</b>	The care plan lists preferences in activities and a participation log is utilized to indicate participation in activities.
<b>Includes strategies for solving disagreement</b>	The care plan discusses strategies to assist the consumer in

	addressing any disagreements by implementing activities that the consumer enjoys. The facility has set a goal to encourage the consumer to participate in activities.
<b>Offers choices to the individual regarding services and supports the individual receives and from whom</b>	The care plan indicates the type of services that are being provided are based on the consumers preference.
<b>Provides method to request updates</b>	Care plan meetings are every 90 days but the consumer or POA may ask for one before then if they wish.
<b>Reflects what is important to the individual to ensure delivery of services in a manner reflecting personal preferences and ensuring health and welfare</b>	Goals are determined by the consumer and/or legal decision maker during the Person-Centered care plan meeting with the HCBS Case Manager and setting staff.
<b>Identifies the individual's strengths, preferences, needs (clinical and support), and desired outcomes</b>	Care planning includes Strengths, needs, goals and task.
<b>May include whether and what services are self-directed and includes risks and plan to minimize them</b>	Care planning includes risks and restrictions.
<b>Includes individually identified goals and preferences related to relationships, community participation, employment, income and savings, healthcare and wellness, education and others</b>	Facility and the HCBS Care planning includes Identified goals and preferences related to values, Community Integration and Social Support, Family, Decision Making, Financial, Education, Employment, Healthcare, Medications, Nutrition, Mental Health, Cognitive, Behavior, and Safety
<b>Signed by all individuals and providers responsible for implementation and a copy provided to all chosen by the beneficiary</b>	HCBS care plan is signed by the HCBS Case Manager and the family who is the POA.

**Date of Review of Evidence Package by the HCBS Settings Committee:**

October 17, 2022; October 31, 2022; December 15, 2022; January 3, 2023; February 9, 2023

**Reviewed by the following Committee members:**

Nancy Nikolas Maier, Director of Aging Services  
Karla Kalanek, Developmental Disabilities Program Administrator  
Kathryn Good, HCBS Program Administrator  
Erica Reiner, HCBS Program Administrator  
Heidi Zander, Program Administrator  
Russ Korzeniewski, HHS Risk Manager

**Requirements to Compliance:**

1. All rights restrictions must be documented and reviewed every 90 days with the HCBS Case



Manager.

2. Rights restrictions to food is documented daily and readdressed every 90 days with the HCBS Case Manager.
3. Restrictions must be documented ongoing to ensure the restriction is still needed by evidence provided at quarterly care plan meetings with HCBS Case Manager.
4. If a rights restriction is no longer deemed appropriate, the restriction must be removed timely and the HCBS Case Manager notified.
5. Ongoing compliance with the rights restrictions in place is subject to State approval and evidence must be provided promptly upon request.

**Date of Compliance with above Recommendations:**

February 13, 2023

**Committee Decision:**

- Setting Fully Complies**
- Setting with additional changes will fully comply**
- Setting issued temporary compliance with need to submit a Corrective Action Plan to include the intent to become compliant with the community integration regulations of the HCBS Settings Final Rule Medicaid Waiver 1915(c) Adult Residential Care Services.**
- Does not/cannot meet HCB Settings Requirements**
- Evidence package must be submitted to CMS for heightened scrutiny because the facility is presumed to have institutional qualities based on one or more of the following:**
  - **Setting is in a publicly or privately-operated facility that provides inpatient institutional treatment;**
  - **Setting is in a building on the grounds of, or adjacent to, a public institution;**
  - **Setting has the effect of isolating individuals receiving Medicaid HCBS from the broader community of individuals not receiving Medicaid HCBS.**