

Summary of Dakota Pointe/HIT Adult Residential CMS Home and Community Based Services (HCBS) Settings Rule Site Visit

October 25, 2022, by Kathryn Good, Program Administrator and Erica Reiner, Program Administrator.

Dakota Pointe is a Traumatic Brain Injury Care Facility that specializes in providing care to individuals with brain injuries. The setting is an unsecure facility that is accessible and located in a residential area with access to provider owned or public transportation. The setting is a standalone facility. A google map, organization chart, Basic Care License, Medication error reporting and Elopement Risk Prevention/Missing Resident policy is included in the Evidence Package. Dakota Pointe capacity is 10 with 10 residents presently and 10 on Medicaid.

July 15, 2022, a Teams conference was held with Dakota Pointe administration 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.

The State provided technical assistance upon request and the provider submitted an evidence package to the State to prove compliance with setting requirements.

October 25, 2022, the state made an onsite visit to tour the facility, review policies and procedures, observe client care, and staff interactions. State staff called Medicaid consumer’s legal decision maker 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.

HCBS Settings Requirements	Review of Facility
<p>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.</p>	<p>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.</p> <p>The facility is ADA accessible.</p> <p>A legally enforceable agreement following ND landlord tenant laws.</p> <p>There are cameras in the facility by the front entrance/commons area that faces the entrance door.</p> <p>Supporting Documentation:</p> <ul style="list-style-type: none"> • Lease Agreement • Site Visit and Observation by state staff summary • Survey with consumer and legal decision maker
<p>Provides opportunities to seek employment and work in competitive integrated settings, engage in community life, and control personal resources.</p>	<p>Some consumers at the facility are currently employed and some have chosen to be retired.</p> <p>Consumers can continue employment or volunteering based on their person-centered goals.</p> <p>The consumer, power of attorney, or family control</p>

	<p>finances, the consumer can keep money in their possession if they desire but most have a rep payee or guardian. Engaging in community life is addressed below.</p> <p>Supporting Documentation:</p> <ul style="list-style-type: none"> • Resident Handbook • Survey with consumer and legal decision maker
<p>Is integrated in and supports access to the greater community</p>	<p>Activity Calendars are posted to inform consumer and family of activities within the facility. The family/natural supports are encouraged to take the consumer out into the broader community. This was noted at the site visit. Consumers usually go out daily. The consumer can utilize the internet or paper to determine activities outside of the facility.</p> <p>Public Transportation is available and utilized by consumers.</p> <p>An assessment is filled out at Admission to determine the likes and dislikes. 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. The door is locked at night and consumers may call or use doorbell for entry.</p> <p>The residents can go out the back door to walk around in the yard if they wish. They often go for walks during the day.</p> <p>Supporting Documentation:</p> <ul style="list-style-type: none"> • Resident Handbook • Calendar of Events • Available Activities Sheet • Monthly Activity Participation Log • Observation/Outing Information Log • Person Centered Plan • Survey with consumer and legal decision maker • Site Visit and Observation by state staff
<p>Optimizes individual initiative, autonomy, and independence in making life choices</p>	<p>There are no visiting hours and guests can stay overnight. There is a voluntary check in and out process to ensure</p>

	<p>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>The kitchen is open. The fridge and pantry were locked. After recommendations by the Settings Review Committee, Dakota Pointe agreed to unlock these to prevent restrictions of all residents. Consumers help make meals, serve and clean up after. There is a bowl of fruit out for consumers to have at any time. One entrée is served at mealtime, but alternate food is available upon request.</p> <p>Consumers had choices of food. No disposable food utensils used.</p> <p>The laundry room is available to residents who wish to do their own laundry and have scheduled times twice a week. They may also use the machines at any other time the machines are not being used.</p> <p>Supporting Documentation:</p> <ul style="list-style-type: none"> • Resident Handbook • Site Visit and Observation by state staff • Survey with consumer and legal decision maker
<p>Ensures an individual's rights of privacy, respect, and freedom from coercion and restraint</p>	<p>The Medicaid consumers have private apartments with lockable doors with jack and jill bathrooms.</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>Several areas were available to provide private visiting areas such as their personal room, outside or in the game room.</p> <p>There is a cordless phone dedicated for resident use only so that residents can receive or make private phone calls. Staff can assist residents in making phone calls when they</p>

	<p>are requested, and families are encouraged to purchase long distance phone cares if they need to make long distance calls.</p> <p>Mail is hand delivered to the resident unopened. TVs available to residents in the great room or they can have one in their personal room. Staff training includes Resident Rights and topics of dignity and respect.</p> <p>The resident handbook reflects care and medications are given in private. The door to the medication and unit office will remain closed when staff are not in there.</p> <p>Observed the staff knocking on the door before entering the room.</p> <p>Supporting Documentation:</p> <ul style="list-style-type: none"> • Resident Handbook • Resident Complaint/Grievance policy is included in the Admission Packet. • HIPAA Notice of Privacy Practices is included in the Admission Packet. • Site Visit and Observation by state staff • Survey with consumer and legal decision maker
<p>Facilitates individual choice regarding services and supports and who provides them</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 off site for church and salon services.</p> <p>Consumer medical care is provided per own preference.</p> <p>Supporting Documentation:</p> <ul style="list-style-type: none"> • Resident Handbook (Includes list of services outside of facility) • Resident Rights Booklet • Resident Complaint/Grievance policy is included in the Admission Packet. • Site Visit and Observation by state employees • Survey with consumer and legal representative
<p>Ensures the individual receives services in the community to the same degree of access as individuals not receiving</p>	<p>All consumers are treated the same. Consumers can eat in place of their choosing.</p>

<p>Medicaid HCBS</p>	<p>The consumer can access the broader community for services if desired.</p> <p>Supporting Documentation:</p> <ul style="list-style-type: none"> • Resident Handbook • Resident Rights Booklet • Site Visit and Observation by state staff • Survey with consumer and legal representative
<p>Person-centered service plan</p>	<p>Dakota Pointe/HIT 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>Supporting Documentation:</p> <ul style="list-style-type: none"> • Person Centered Care Plan Review by State staff • Participation Log review • Dakota Pointe/HIT Care Plan review • HCBS Care Plan review

<p>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.</p>	
<p>The individual has a lease or other legally enforceable agreement providing similar protections</p>	<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>Supporting Documentation:</p> <ul style="list-style-type: none"> • Lease Agreement
<p>The individual has privacy in their unit including lockable doors, choice of roommates and freedom to furnish or decorate unit</p>	<p>At the site visit it was observed the units are private with lockable doors. The Medicaid consumer had a private unit.</p> <p>The consumer had pictures on the wall and unit was 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>Supporting Documentation:</p> <ul style="list-style-type: none"> • Resident Handbook • Lease Agreement

	<ul style="list-style-type: none"> • Site Visit and Observation by state staff • Survey with consumer and legal decision maker
The individual controls his/her own schedule including access to food at all times	<p>If a menu is not acceptable, another option can be prepared. There are no assigned seats. Snacks are available throughout the day. 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 son / legal decision maker indicated knowledge of these rights.</p> <p>Supporting Documentation:</p> <ul style="list-style-type: none"> • Resident Handbook • Site Visit and Observation by state staff • Survey with consumer and legal decision maker
The individual can have visitors at any time	<p>Overnight guests allowed and there are no designated visiting hours.</p> <p>Supporting Documentation:</p> <ul style="list-style-type: none"> • Resident Handbook • Survey with consumer and legal decision maker
The setting is physically accessible	<p>The setting is in a residential area of Mandan. The setting is ADA accessible.</p> <p>Supporting Documentation:</p> <ul style="list-style-type: none"> • Site Visit and Observation by state employees

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.

Each individual living at Dakota Pointe has access to the community on a daily basis. Several go for walks or have jobs that they go out to. They utilize the local transit services to go out into the community. They go out to church or salon services.

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.

Must be timely and occur at times/locations convenient to all involved.	<p>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.</p>
Reflects cultural considerations/uses plain	Yes

language	
Discusses individual preference for community integration within and outside the setting.	Life History: Indicates previous careers and memberships. The Life History indicates the activities the consumer likes or dislikes. Indicates activities that help the individuals calm. Indicates how individual reacts in crowded areas and if individual prefers or doesn't prefer to be in loud or crowded areas.
Includes strategies for solving disagreement	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.
Offers choices to the individual regarding services and supports the individual receives and from whom	The care plan indicates the type of services that are being provided are based on the consumers preference.
Provides method to request updates	A resident or responsible party may request a care plan meeting or updates at any time.
Reflects what is important to the individual to ensure delivery of services in a manner reflecting personal preferences and ensuring health and welfare	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.
Identifies the individual's strengths, preferences, needs (clinical and support), and desired outcomes	Care planning includes Strengths, needs, goals and task.
May include whether and what services are self-directed and includes risks and plan to minimize them	Care planning includes risks.
Includes individually identified goals and preferences related to relationships, community participation, employment, income and savings, healthcare and wellness, education and others	Facility and the HCBS Care planning includes Identified goals and preferences related to values of the individual. Community Integration and Social Support, Family, Decision Making, Financial, Education, Employment, Healthcare, Medications, Nutrition, Mental Health, Cognitive, Behavior, and Safety
Signed by all individuals and providers responsible for implementation and a copy provided to all chosen by the beneficiary	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:

November 21, 2022 and January 30, 2023

Reviewed by the following Committee members:

Nancy Nikolas Maier, Director of Aging Services
Karla Backman, State Long Term Care Ombudsman Administrator
Karla Kalanek, Developmental Disabilities Program Administrator
Katherine Barchenger, State Autism Coordinator
Erica Reiner, HCBS Program Administrator
Kathryn Good, HCBS Program Administrator
Russ Korzeniewski, HHS Risk Manager

Recommendations to Meet Compliance:

Dakota Pointe needs to remove the lock on the refrigerator and pantry, controlling access to food.

Date of Compliance with above Recommendations:

January 30, 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.**