

APD's Heightened Scrutiny Evidence Package, June 2017

The common factor between all five facilities APD is submitting for CMS' Heightened Scrutiny is their appearance of having potentially isolating qualities mostly due to the physical location. APD believes all five can overcome the presumption of isolating and achieve full compliance with HCBS regulations. Heightened Scrutiny Onsite Visits were conducted by local APD/AAA managers. These managers were given written instructions and the opportunity for training and coaching prior to conducting the Heightened Scrutiny Onsite Visits. A uniform questionnaire for documenting observations was used. (See "APD HS Onsite Review Template Nov-16")

While there is a range of remediation and progress that needs to be made in terms of full HCBS compliance, the current level of compliance is similar to other APD providers at this stage of transition. Oregon concedes that the providers identified in this evidence package meet the federal direction for Heightened Scrutiny, but strongly asserts these residential settings are "Expected to Meet" HCBS requirements within the same timeline as other APD provider-owned, controlled or operated settings. These providers have already started implementing program and policy changes that will bring them into full compliance on the state's established transition timeframe. Oregon is confident that any isolating qualities will be mitigated and overcome by APD's regulating, monitoring and enforcing activities. APD will continue to monitor progress on all HCBS requirements, but will focus on these areas:

- That individuals have regular opportunities and support to access the broader community.
- That there is a person-centered planning process in place that utilizes Individually-Based Limitations to the Rules, to limit a person's freedoms, rights and protections only when necessary for health or safety.
- That there is clear separation of and identity as Home and Community-Based operations.

We propose that any final Heightened Scrutiny determination by CMS occur after June 2019, to allow these settings to have equal opportunity to achieve HCBS compliance as afforded other provider-owned, controlled or operated settings that require remediation.

The following identified settings are listed alphabetically by city.

Cottage Grove: Middlefield Oaks

This Residential Care Facility (RCF) with Memory Care Community (MCC) is located near a hospital. Summary of Heightened Scrutiny Onsite Visit, made 03/23/17:

This RCF/MCC is located in town and holds activities in which they take people out into the community, and bring the community into the setting. Each resident directs how to spend their own money. The RCF/MCC will lock up their personal resources, if requested by the resident. All residents have access to all activities and are able to participate. Individuals are able to receive services in the community; the RCF/MCC does not put barriers in place. The RCF/MCC ensures resident's rights of privacy, dignity, respect and freedom from coercion/restraint. Calendars are available and

optional daily activities are posted for all to participate. Residents are encouraged to bring ideas for activities that they are interested in and to interact with people of their choosing. Individuals may, based on their individual ability, participate in the broader community. Some may need additional supports. APD and the RCF/MCC will implement Individually-Based Limitations for individuals who cannot safely participate in the community on their own. The RCF/MCC is not attached to or in the same building as a Nursing Facility or hospital. Residents are not required to receive services in the Nursing Facility or hospital.

Florence: Spruce Point

This Residential Care Facility (RCF) with Memory Care Community (MCC) is located near a hospital. Summary of Heightened Scrutiny Onsite Visit, made 03/21/17:

This RCF/MCC is integrated in the community to the same degree as other HCBS settings. The town where the RCF/MCC is located is small, and the RCF/MCC is located near the beach and close to shopping. There were no barriers observed to individuals accessing the broader community. The residents in the MCC have significant cognitive impairments that require a locked unit to ensure their safety. The RCF/MCC has multiple optional activities throughout the day, including outings into the community. They also have people from the community come in to do activities, concerts, etc. Residents who want to manage their own finances may do so; all other resident's money is locked up for safe keeping. Residents are able to spend their personal incidental fund money as they want. There were no barriers observed for individuals receiving services in the community to the same degree of access as individuals not receiving Medicaid HCBS. If a resident wants to do an activity, the RCF/MCC tries to accommodate that. It appears the RCF/MCC ensures individuals' rights of privacy, dignity, respect and freedom from coercion/restraint; no barriers were observed. The RCF/MCC allows for the most independence possible in making life choices, like daily activities, physical environment, and those with whom residents interact. However, the MCC is locked to ensure individual's safety, and there is a large hallway between the MCC and the Residential Care Facility-side, where a lot of activities go on. This could present a barrier to the ability to interact with others. The RCF/MCC has a variety of daily activities. The RCF/MCC is not in the same building as a Nursing Facility or hospital, and residents are not required to receive services in the Nursing Facility or hospital.

Portland: The Gardens at Laurelhurst, Avamere

This Assisted Living Facility is on a campus with a Nursing Facility. Summary of Heightened Scrutiny Onsite Visit, made 03/24/17:

This Assisted Living Facility (ALF) is integrated in the community to the same degree as other HCBS settings. Residents come and go freely. The ALF has its own entrances. Both Medicaid recipients and Private-Pay individuals reside there. The ALF supports full access to the broader community. Outings are scheduled and there is a city bus line close by. Residents control their own personal resources with some individuals having Representative Payees assist with finances. Residents are able to receive services in

the community to the same degree as individuals not receiving Medicaid HCBS. Residents have their own private apartments and make their own schedules and choices in which activities they would like to participate. No instances of coercion or restraint were observed. While the ALF is attached to or in the same building as a Nursing Facility, staff and services are not shared between the two settings. Residents are not required to receive services in the Nursing Facility (e.g., activities, meals). The ALF has its own dining and activity area, separate from the Nursing Facility.

Roseburg: Brookdale Roseburg

This Residential Care Facility (RCF) with Memory Care Community (MCC) has fenced courtyards and a brick wall surrounding the community. Summary of Heightened Scrutiny Onsite Visit, made 03/16/17:

This RCF/MCC is located in a small community approximately two minutes from downtown, and does not have commercial shopping or other community resources immediately adjacent to it. The RCF/MCC residents' access to the broader community is limited due to their significant cognitive impairments and the physical location of the facility. The RCF/MCC and APD will be implementing Individually-Based Limitations to the Rules for individuals who cannot safely participate in the community on their own, or who cannot manage their personal funds. Access to the broader community is supported within the guidelines of a Memory Care facility per Oregon Administrative Rules, to ensure the safety of the residents. Because of the impairment level of individuals receiving services, most individuals can no longer control finances, so family members often assist in that area. When requested, the RCF/MCC will hold the residents' personal incidental funds in a secure manner. Residents and their families may choose to access services within the facility or out in the community. The RCF/MCC does not restrict or place barriers to the resident's rights of privacy, dignity, respect and freedom from coercion/restraint. Nor does it regiment individual initiative, autonomy, daily activities or people with whom residents can interact. The RCF/MCC encourages residents to be independent and make life choices about their daily activities, physical environment and with whom to interact, as long as it does not endanger the resident or others.

Vale: Pioneer Place

This Assisted Living Facility (ALF) is located with a Nursing Facility. Summary of Heightened Scrutiny Onsite Visit, made 03/30/17:

The local community and providers refers to this ALF as the "Nursing Home"; they forget it is both a Nursing Facility and an ALF. APD will work with the ALF to overcome this barrier during the transition period, so the local community will see the difference between the two facilities. The ALF has optional daily activities and a monthly calendar with scheduled events that is given to each resident. Residents can choose whether or not to participate. Residents have outings and go shopping at least once a month. Residents are offered the opportunity to travel to other ALFs and play softball with other residents. Residents who can manage their personal resources do; though some opt to

have their family members manage this for them. If a resident requests the ALF to keep their money for them, the ALF will do so. All residents have the same rights and access to services in the community. In order to enter/exit the facility you must enter a code (which is written above the keypad) into the keypad because the door is locked. For those residents that are unable to enter the code, ALF staff assist them and include the need for assistance in their care plan. Due to their cognitive impairment, most residents cannot freely come and go on their own. The ALF and APD will be implementing Individually-Based Limitations to the Rules for these individuals to ensure their health/safety. Residents have keys to their rooms so they can lock their room for privacy. Residents make independent life choices (like daily activities and with whom to interact), as long as they are able to. The ALF does not prevent residents from planning their own activities, but it does not offer individual activities currently. During the State's transition period, APD will work with the ALF to explore and implement ways to offer residents the ability to choose and participate in non-planned activities of interest. The ALF and Nursing Facility do not share care staff, but they do share the same cook and kitchen. While meals are the same, they are served differently: ALF residents may choose between soup and salad and then choose their meal; Nursing Facility residents choose what they want to eat, but they are served on resident-specific trays according to their dietary needs and preference. The ALF and Nursing Facility have separate dining areas. There are also separate activity directors; but while activities are separate, Nursing Facility residents are often invited to participate in ALF activities

APD is ensuring that these providers have specific plans in place to address any areas requiring remediation.