

## **Home and Community Based Settings Rule Heightened Scrutiny Evidentiary Package**

### **New England Village**

As part of the HCBS Community Rule, CMS requires settings in the following categories to be submitted for Heightened Scrutiny review.

- Prong 1 settings: Located in a hospital, nursing facility, intermediate care facility (ICF-DD) or institution for mental disease (IMD)
- Prong 2 settings: Located adjacent to a public hospital, nursing facility, ICF-DD or IMD
- Prong 3 settings: Have the effect of isolating people from the broader community of people who do not receive HCBS

Massachusetts does not have any waiver settings that fall into Prongs 1 or 2. CMS requires information for any providers that were not fully in compliance with Prong 3 of the Community Rule by July 1, 2021, to be submitted to CMS for Heightened Scrutiny review. Massachusetts has completed Heightened Scrutiny packages for two providers in Prong 3 as required.

#### **Narrative of Heightened Scrutiny Process:**

Central, Regional, and Area Office staff from the Department of Developmental Services (DDS), as the agency operating the Intensive Supports Waiver on behalf of EOHHS, identified specific 24-hour residential settings as potentially presumed to have the qualities of an institution. Staff closely followed CMS guidance for this identification, looking at settings that are located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment, are located in a building on the grounds of, or immediately adjacent to a public institution; and any other settings that have the effect of isolating individuals from the broader community. Based on this analysis, 14 providers were identified for in-depth review.

To facilitate further evaluation of the 14 providers, operating a total of 57 settings, DDS developed and deployed a provider self-assessment tool that borrowed substantially from the exploratory questions that CMS had published.

The provider self-assessments were completed by each identified provider, with review by DDS Central and Regional Office staff to identify areas for remediation and improvement.

Verification of each of the providers' self-assessments was conducted by DDS staff through on-site visits and meetings with key agency staff.

DDS staff then categorized each site as fully compliant, compliant with changes, or as settings unable to come into compliance with the Community Rule.

Each of the providers developed a Provider Transition Plan and provided quarterly updates to DDS. DDS met regularly with the 14 providers, and ongoing certification site visits occurred.

By July 1, 2021, twelve (12) of the fourteen (14) identified providers were in full compliance with the Community Rule. Two Providers had successfully met compliance in the areas of choice and control and respect and dignity. However, relative to community access and integration, both providers required more time to facilitate individual opportunities to access the broader community and participate in community services consistent with their individualized choices and to engage in activities outside of the provider setting.

#### **Provider Information:**

New England Village, Inc. (NEV) is a non-profit provider agency formed in 1966 that was built on an old estate in Pembroke Massachusetts (corporate address: 664 School Street, Pembroke, MA 02359). In 1972, NEV started providing residential services.

NEV provides a variety of services to individuals with intellectual and developmental disabilities in southeastern Massachusetts. These services include residential supports, consisting of 24-hour residential supports serving 67 individuals (52 are waiver participants). NEV also provides day supports, including community-based day services (CBDS) and employment supports for those people who want to obtain a competitive job. They also provide services through two day habilitation programs, and programming on a small farm which provides opportunities for employment and volunteerism. NEV has a Solar Wellness Center at the location that offers inclusive programming for people with and without disabilities. Members of the local community access various health, wellness, and community programs at that site along with the residents.

The location under review currently has 15 residential homes. The town center with the Town Library, Council on Aging, a plaza with a Stop & Shop, CVS, and bank are all within 3.5 miles of the location. In addition, the site is 8 miles from the North River Plaza, which includes a grocery store and is 5 miles from Pembroke Square shopping mall. There is also a bank located 3 miles from the site.

<b>Provider</b>	<b>ID</b>	<b>Current Eligible Occupancy</b>	<b>Waiver Occupancy</b>
New England Village	A	5	4
New England Village	B	3	2
New England Village	C	5	4
New England Village	D	5	5
New England Village	E	5	5
New England Village	F	8	7
New England Village	G	4	1
New England Village	H	3	3
New England Village	I	5	5
New England Village	J	5	3
New England Village	K	3	3
New England Village	L	4	3
New England Village	M	3	2
New England Village	N	5	3
New England Village	O	4	2

**Heightened Scrutiny Categories:** (check specific outcome(s) for the provider):

This chart represents the initial findings based on provider assessment, with review by DDS Central and Regional Office staff, to identify areas for remediation and improvement as described above.

	1. Setting is in a publicly or privately operated facility that provides inpatient institutional treatment.
	2. Setting is in a building on the grounds of, or immediately adjacent to, a public institution.
✓	3. Setting has the effect of isolating individuals from the broader community.
✓	A. Individuals have limited, if any, opportunities for interaction in and with the broader community and /or the setting is physically located separate and apart from the broader community and does not facilitate individual opportunity to access the broader community and participate in community services consistent with their person-centered service plan.
	B. The setting restricts individuals' choice to receive services or to engage in activities outside of the setting.
	C. The setting has qualities that are institutional in nature. These can include: The setting has policies and practices which control the behaviors of individuals; are rigid in their schedules; have multiple restrictive practices in place.

### **Provider Transition Plan:**

NEV developed an action plan/transition plan in 2015 in order to fully comply with the Community Rule. This plan encompassed areas including planning/quality improvement, communication/hiring, supporting and enhancing relationships, providing choice, control and growth, and access and integration in the community. NEV completed activities to comply with the Community Rule such as:

- Interviews and surveys with individuals and families related to person-centered planning;
- Revising the hiring process to include individual input;
- Reviewing and updating mission, vision, policies and procedures;
- Using assistive technology to enhance individual communication and increase independence;
- Community mapping and staff training on fostering relationships;
- Residential agreement development and implementation; and
- Installation of locks on bedroom doors.

NEV provided regular updates at the beginning of the transition planning process starting in 2015, and DDS has conducted ongoing monitoring through Licensure and Certification since then. NEV participated in workgroups with other providers to assist with developing best practices and strategies to come into full compliance with the Community Rule.

### Evidence the Setting is Fully Compliant or Will Be Fully Compliant:

	Criteria	Compliance Status
✓	3. Setting has the effect of isolating individuals from the broader community.	MET
✓	A. Individuals have limited, if any, opportunities for interaction in and with the broader community and /or the setting is physically located separate and apart from the broader community and does not facilitate individual opportunity to access the broader community and participate in community services consistent with their person-centered service plan.	MET

Utilizing the evidence from the following DDS systems of oversight and monitoring, in addition to continued ongoing conversations with the provider, a determination has been made that the provider is now fully compliant.

The licensure and certification process applies to all providers subject to the requirements of Chapter 19B; section 15(a) of the Massachusetts General Laws. The licensing review is conducted in a 2-year cycle if all thresholds are met; other conditions may require a 60-day follow-up and or a mid-cycle review where the agency is reviewed for those indicators where the threshold has not been met. Providers are certified for two years, concurrent with their Two-Year Licensure. If the certification threshold is not met, the provider is required to complete a progress report at the one-year mark.

Licensure and certification results are reported separately, with Certification findings specific to individual service types and measuring key areas such as human rights, choice and control, and community access and integration.

The certification tool and process set forth standards for specific services that promote quality and responsiveness and, when implemented, are predictive of positive outcomes in the lives of individuals. The tool has its foundation in DDS Regulations (Chapters 5, 7, and 8) and covers areas of respect, individual control and choice, and community integration, and the tool was expanded in 2016 because of the Community Rule. The specific support expectations in certification fall into several domains, each of which are evaluated separately. These include, but are not limited to, planning and quality improvement, choice and personal growth, supporting and enhancing relationships, career planning and development, and access and integration, to reflect the community rule.

The Licensure and Certification review includes preparatory documentation review, administrative review and interview, on-site visits, individual observation and interviews,

and individual documentation reviews. Survey findings are made based on extensive evidence obtained through these various processes.

Upon the completion of the survey, a feedback meeting is held for the purpose of presenting the survey team's findings. In addition to outlining the level of licensure and certification results, the meeting allows sufficient time to discuss any areas where additional agency effort might be needed. The goal of this meeting is to support continuous service quality improvement.

DDS Area Office staff conduct bi-monthly visits to all homes providing 24-hour support, and quarterly visits to homes providing less than 24-hour support. A standardized form is used to ensure that health, safety, and human rights protections are in place. Results from these visits are monitored by Area Office staff. Visits ensure an ongoing presence and oversight by Department staff.

NEV's most recent licensure and certification survey occurred from 08/17/2022 to 08/23/2022.

NEV was found to have been successful in the three key areas of respect and dignity, individual choice and control, and community access and integration.

Through the process of reviewing documentation, observations, and interviews on site, NEV displayed strengths within the certification indicators. In the residential supports, individuals were supported to have choice and control. Individuals were able to decide what they ate and where. They had control over their daily schedules and determined how they filled their leisure time at home. Numerous examples were observed through the DDS on-site reviews. One individual interviewed was supported to be very active in the community such as the local choir and a community club where monthly meetings are held in a neighboring town. Another person took pride in being involved in the development of their own community activities and felt that their choices were being supported. Individuals were able to go to the library and to the bank when needed. In relationships, another individual discussed how they talked to their boyfriend over the phone and how staff are providing support in organizing a date night between the two.

Individuals at NEV are afforded privacy in their personal rooms by having the ability to lock their doors. Residential agreements were found to be in place. Individuals can have visitors which is often organized and supported by staff.

Within the area of communication, all individuals were provided the opportunity to give feedback regarding the staff that support them. Communication with guardians/family was open and frequent and staff have provided support to individuals, where appropriate, to increase communication. Guardians reported they felt supported by NEV. Homes and apartments were individualized, tastefully decorated, and reflected the individuals' unique personalities.

DDS has categorized NEV as fully compliant as of August 2022. Since the August 2022 survey, DDS has met with NEV regularly. NEV is committed to continued success in the areas of community access and integration and will be providing status information to DDS staff through ongoing meetings.

As the provider met this threshold after July 2021, and consistent with CMS guidance, we recommend that a corrective action plan (CAP) be initiated as things continue to stabilize in the aftermath of the public health emergency and resultant workforce issues.

**Summary of Public Comments Received and State Response:**

A summary of public comments will be added following the completion of the public comment period.