



**DEPARTMENT OF  
PUBLIC HEALTH &  
HUMAN SERVICES**

Home and Community Based Services

12.2023

Final Rule Heightened Scrutiny  
Evidentiary Package

## Background

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In January 2014, the Centers for Medicare and Medicaid Services (CMS) announced a requirement for states to review and evaluate current Home and Community-Based Settings (HCBS), including residential and non-residential settings, and to demonstrate compliance with the Federal HCBS Setting Rules that went into effect March 17, 2014, [Home & Community Based Services Final Regulation | Medicaid](#)

These federal guidelines were developed to ensure that members receiving long-term services and supports through HCBS programs under Medicaid waiver authorities have full access to benefits of community living and the opportunity to receive services in the most integrated setting appropriate. For the purposes of this assessment, settings defined as having the qualities of institutions and therefore requiring a heightened scrutiny assessment and review are any settings that are:

- located in a hospital, nursing facility, intermediate care facility (ICF-DD) or institution for mental disease (IMD); or
- located adjacent to a public hospital, nursing facility, ICF-DD or IMD; or
- presumed to have the effect of isolating people from the broader community of people who do not receive HCBS.

### Isolation Further Defined:

Isolating individuals receiving Medicaid HCBS from the broader community of individuals not receiving Medicaid HCBS. This would include settings that may not look isolating, but because of rules and procedures followed at the setting, have the effect of isolating members. In guidance, CMS has identified examples of settings that potentially isolate, including farmsteads, gated or secured communities for people with disabilities, residential schools, and multiple settings clustered together and operationally related.

CMS March 2014 [settings-that-isolate.pdf \(medicaid.gov\)](#)

To overcome the presumption that a setting has institutional-like qualities, a heightened scrutiny evidentiary package must be compiled by the state for review by CMS. Information within this evidentiary package will focus on the qualities of the setting and how the setting is integrated in and supports access of individuals receiving HCBS into the broader community via the organization's policies and practices as well as in how the setting supports individuals consistent with their person-centered service plans.

This evidentiary package, for Rivers Bend Assisted Living, Malta, Montana, will provide evidence of how the State of Montana, Department of Public Health and Humans Services (DPHHS or the department) has determined that this setting has overcome the presumption that it has the qualities of an institution and achieves compliance with Federal HCBS Settings rules.

## Rivers Bend Assisted Living, Malta, Montana (HS-4)

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### Setting Information

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Setting Name: Rivers Bend Assisted Living

Phone: 406-654-2106

Street Address: 801 S. 3rd St. E  
Malta, MT 59538

Fax: 406-654-1356

Setting Website:  
[www.riversbendlife.com](http://www.riversbendlife.com)

HCBS Members Currently Served

## Waiver Type Serving HCBS Members

Waiver Service	Service Type
<input checked="" type="checkbox"/> Big Sky Waiver- Aged, Blind, and/or Physically Disabled <input type="checkbox"/> Severely Disabling Mental Illness Waiver <input type="checkbox"/> 0208 Waiver- Developmental Disabilities	<input checked="" type="checkbox"/> Assisted Living Facility

## Heightened Scrutiny Indicator

Prong Identifier	Selected Sub-Category	Type of Setting- Detail
Prong 1 <input checked="" type="checkbox"/> The setting is located in a hospital, nursing facility, intermediate care facility (ICF-DD) or institution for mental disease (IMD).	<input checked="" type="checkbox"/> Attached to a Hospital <input type="checkbox"/> Attached to a Nursing Home <input type="checkbox"/> Attached to an Intermediate Care Facility <input type="checkbox"/> Attached to an institution for mental disease	Name of Institution Rivers Bend Assisted Living 801s. 3rd St. E Malta, MT 59538
March 22, 2019 SMD # 19-001 Re: Home and Community-Based Settings Regulation – Heightened Scrutiny <a href="#">Heightened Scrutiny SMD-SMDL Final (medicaid.gov)</a>		

## Setting Overview

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The Assisted Living Facility (ALF) is attached to a closed nursing facility which is attached to the Phillips County Hospital. An onsite visit confirms the two entities are separated by four sets of double-doors, and there are distinct separate entrances to each wing. The ALF is located in a separate wing of the building to include its own resident common and activity area, sitting area, reading area, and dining room. The ALF staff are separate from the hospital staff, and they do not cross over. It is confirmed this setting is not institutional nor isolating in nature.

ALF Administration reports the facility and hospital are owned by separate entities and do not share budgets or financing. They maintain separate addresses to distinguish between the two facilities. The two facilities do not share staff. Staff are designated as solely ALF, or hospital and there are no shared staff. Residents and staff interviewed confirm the residents are not required to receive medical, therapy or behavioral services on site. The state assures the specific unit/dwelling is owned, rented, or occupied under legally enforceable agreement that includes the same or comparable protections to those provided under the jurisdiction's landlord tenant law [42 CFR 441.301(c)(vi)(A)].

The ALF is located in a quiet residential neighborhood in a frontier Montana community. As estimated in 2022, 32% of the community population is over the age of 60 years old. There is access to a small variety of shopping and eating establishments. The general public can walk and bike on the roads surrounding the setting. The facility provides for multiple on-site activities, as well as opportunities for members to participate in community events, services, and activities. The facility shares information with members regarding community events and activities. This was evidenced by an activities calendar, as well as confirmed by staff and resident interviews. The members can attend community activities and services of their choosing to include shopping, appointments, bazaars, sporting events, religious services, country drives and dining experiences. Staff assists as needed for any scheduling and/or transportation arrangements. The facility is located next to the Phillips County Transport and members can use this public transportation service for \$1 each trip. Scheduling and access are provided by the facility to ensure members can access the greater community as they desire. In addition to this transportation service, facility staff are also available to take members on outings as needed. Members are free to come and go from the facility at their leisure, and the facility is staffed 24/7 for entry access. Members are encouraged to have friends and family visit, and they are free to have visitors at any time and any day they choose.

Rooms at the facility are one-bedroom suites which can accommodate either a single occupant, or couples who wish to room together. Members are able to decorate and furnish their rooms at their discretion. All rooms are equipped with locks on the entrance door, as

well as locks on bathroom and bedroom doors for privacy. Staff knock on the door and/or ring a doorbell for access into the member's private area. The facility is arranged to ensure privacy during personal care, as well as while using the telephone, internet, or any other personal communication devices. Members set their own schedule of daily activities to include sleep and wake schedules, hygiene, care delivery, recreation, and meals. Members always have access to meals and snacks both in their rooms and in the common kitchen area. All rooms are equipped with kitchen areas with cupboards, refrigerators, and microwaves. Members have full access to the dining area, laundry room, and common areas. Members can choose to do their own laundry if they desire.

Providers are required to comply with Montana's waiver regulations, and specifically provider requirements with the regulations. The facility is physically accessible to both members and the public to include two accessible entrances with no steps. Accommodations such as grab bars, and seats in the bathrooms are available for members in need of supports to move about the facility. The facility does not utilize any barriers that limit access, such as Velcro strips, locked doors or locked cupboards or refrigerators.

The facility provides initial and ongoing annual training to staff and volunteers on resident rights. Resident rights are provided in plain language to members and/or family members, and there is a process available to them to file a grievance which includes contact information for protective services and advocacy organizations.

Montana provides the following assurances to CMS:

- Montana attests to the review of person-centered service plans for members residing at Rivers Bend Assisted Living,
- Montana attests that individuals in the settings have a person-centered service plan in-place that meets the requirements outlined at 42 CFR 441.301(c)(1)-(3).
- Montana validates that the settings support full access of individuals to control their personal resources pursuant to [42 CFR 441.301(c)(4)(i)] Montana Code Annotated 50-5-1104, 50-5-1105, and 50-5-1107 and Administrative Rules of Montana 37.106.37.106.2828.
- Montana validates that the settings support full access for individuals to have opportunities to seek employment and work in competitive integrated settings [42 CFR 441.301(4)(i)].
- Montana validates that there are transportation options available at Rivers Bend Assisted Living and assistance to utilize transportation to access the broader community [42 CFR 441.301(c)(4)(i)].
- Montana attests that the setting is selected by the individual from among a variety of setting options and there was an option of a private living unit [42 CFR 441.301 (c)(4)(ii)].
- Montana attests that the setting options will be 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 [42 CFR 441.301(c)(4)(ii)].

☒ Montana attests that the setting ensures an individual's freedom from coercion and restraint pursuant to [42 CFR 441.301(c)(4)(iii)] and Montana Code Annotated 50-5-1104, 50-5-1105, 50-5-1107 and Administrative Rules of Montana 37.106.2828.

☒ Montana validates that a lease, residency agreement or other form of written agreement is 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 pursuant to [42 CFR 441.301(c)(4)(vi)(A)] and Administrative Rules of Montana 37.106.2823, 37.106.2824 and 37.106. 37.106.2828.

☒ Montana confirms that individuals are able to have visitors of their choosing at any time [42 CFR 441.301(c)(4)(vi)(D)].

☒ Montana confirms that any modifications to the additional conditions under 441.301(c)(4)(vi)(A) through (D) will be supported by a specific assessed need and justified in the person-centered service plans. [42 CFR 441.301(c)(4)(vi)(F)] when applicable.

☒ Montana provides HCBS service delivery systems, the resources necessary to successfully navigate and facilitate staff training, and education. HCBS providers are monitored by department staff and contracted entities on their understanding and execution of the settings rule while actively engaging providers on the importance and value of their roles in person-centered planning. Provider education and resources are to be consistent with state standards as described in the waiver and state plan. Education on HCBS core values extends beyond that of solely HCBS provider systems, but to at a minimum, partnering community associations and organizations, advocates, stakeholders, and the public.



<https://www.cityofmalta.com>  
<https://www.maltachamber.com>

## Pictures of the HCBS Setting

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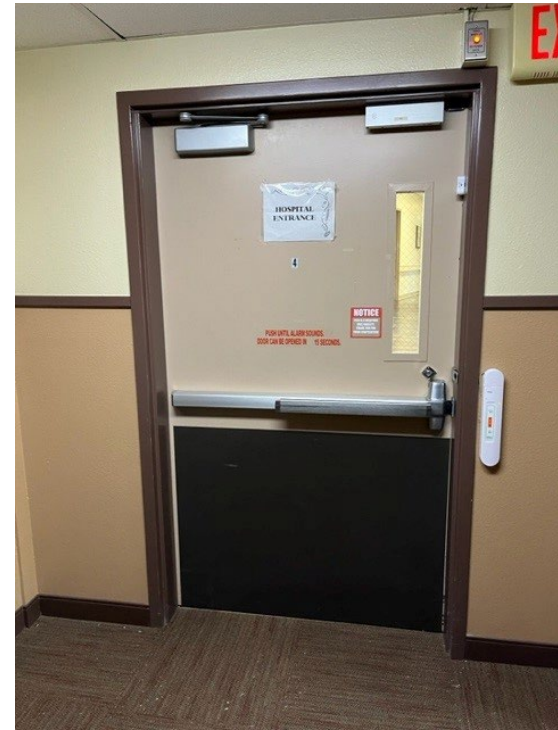
**Separate ALF Front and Rear Entrances**



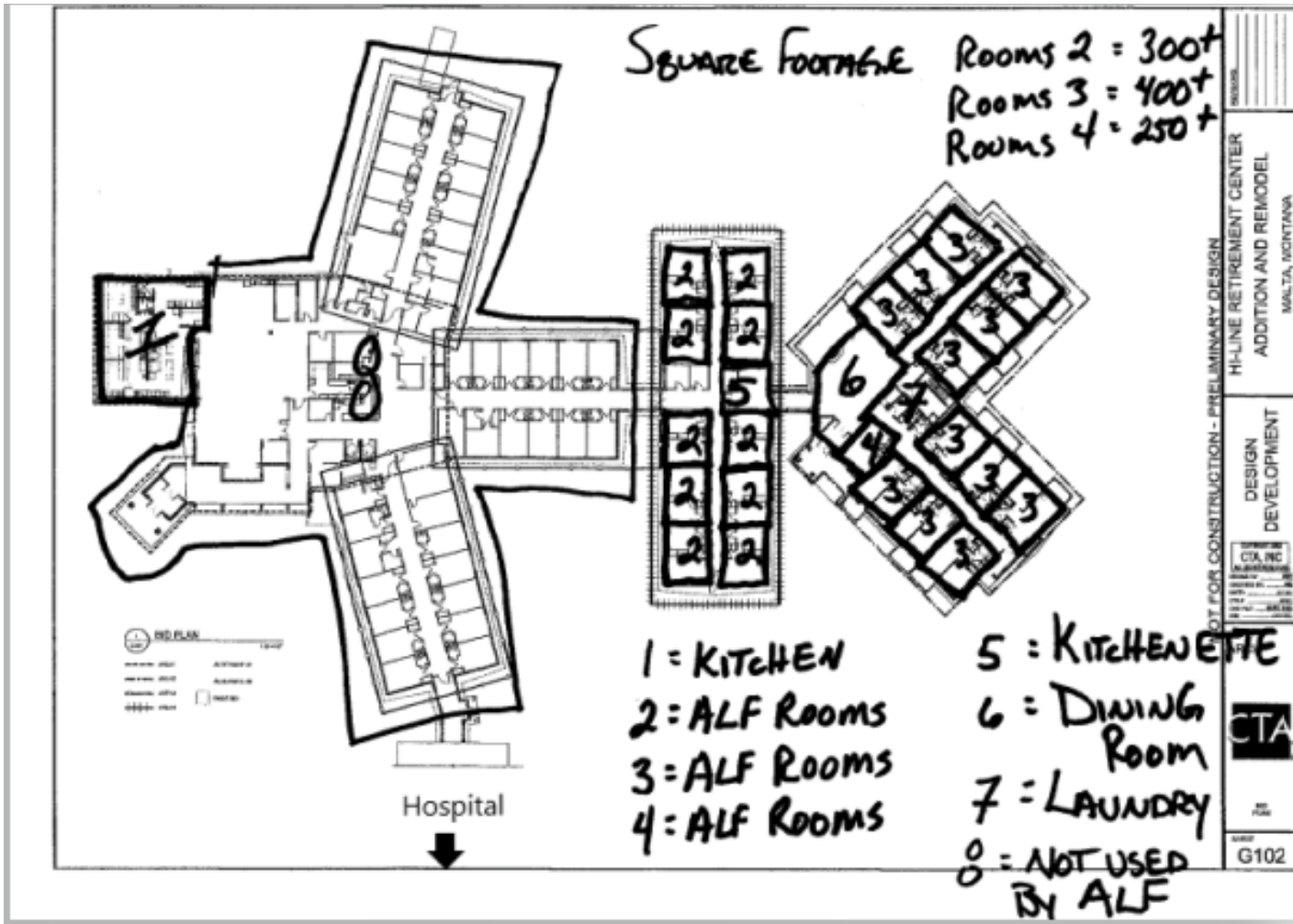




**ALF Resident Courtyard**



**Fire Door Separating ALF from Hospital**



Floorplan





**ALF Lobby/Resident Common Area**



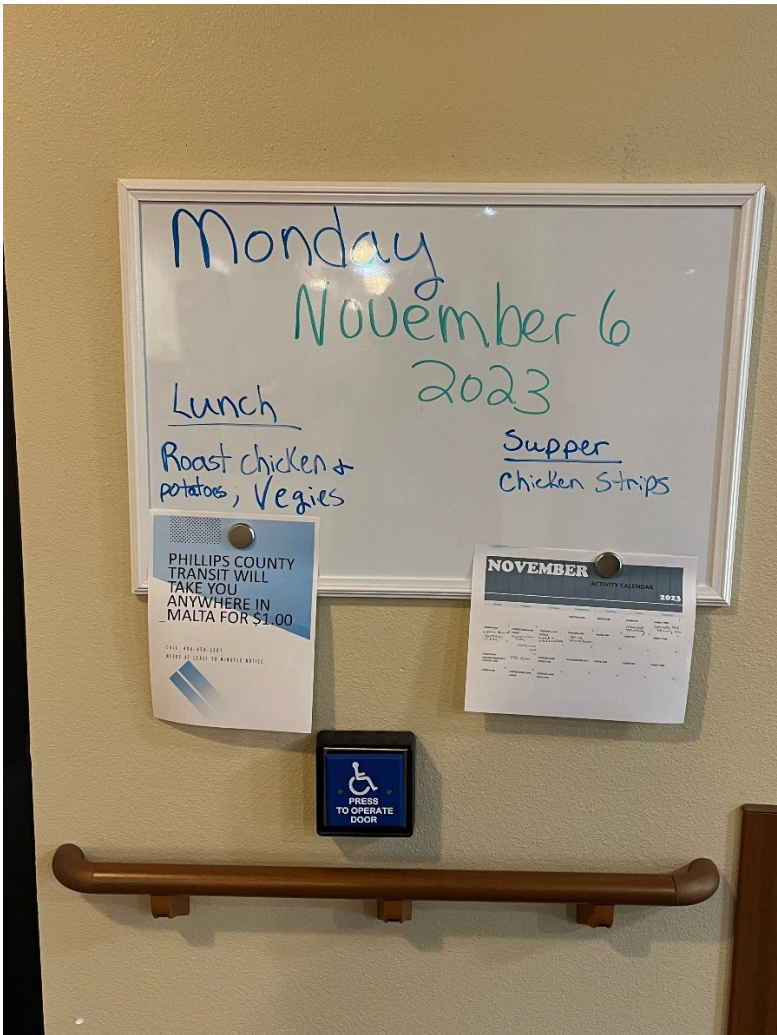
**ALF Resident Common Area/Activity Area**



**ALF Library/Activity Area**



**ALF Activity/Craft Area**



Community Activity Board



Resident Suite Kitchenette



**Resident Suite Front Door Lock**



**Resident Suite Bedroom & Bathroom Door Locks**



Resident Living Room in Suite



## Prong 1 Setting- Heightened Scrutiny Review

<p>The setting is located in a hospital, nursing facility, intermediate care facility (ICF-DD) or institution for mental disease (IMD).</p>	
<p><b>Reviewed sample of individuals’ daily activities, person-centered service plans, and/or interviews to determine that there is variation in the scope, frequency, and breadth of individual beneficiary interactions and engagement in and with the broader community.</b></p>	
<p>Department: Rivers Bend provided both HCBS and non-HCBS member resident service plans to the Department for review. The department verified through an onsite visit, review of documentation, and conducting staff and resident interviews, that the standard is met.</p>	
<p><b>Provider:</b> Members’ activity preferences are identified and documented in their person-centered service plans. The facility offers a variety of activity programs. For example, members may choose to participate in painting, crafts, games, coffee hour, exercise, puzzles, sewing, movies, parties, religious services, and card games. Members also have the ability to leave the facility and participate in community-based activities. The facility assists members with outside outings. These outing include shopping, appointments, sporting events, bazaars, church, and dining experiences. Some members schedule their own outings such as family outings. The facility assists members with scheduling transportation and ensuring that they have necessary medications and meals to go.</p>	<p><input checked="" type="checkbox"/> Met  <input type="checkbox"/> Not Met  <input type="checkbox"/> N/A</p>
<p><b>Procedures (including, for example, the types of activities, transportation, and staffing that are in place) and services provided by the setting that indicate evidence of access to and demonstrated support for beneficiary integration in community activities in the broader community consistent with individuals’ person-centered service plans.</b></p>	
<p>Department: Rivers Bend provided the Department with a Resident Rights Handout, Assisted Living Facility Resident Agreement and Activity Calendars. In addition, the Department performed an onsite visit with staff and member interviews to confirm the members have opportunities to access the broader community and are made aware of these opportunities. The Department confirmed that members can freely choose from these services and/or activities; and how these services and/or activities are consistent with individual needs, as noted in the person-centered service plan. The Department determined through these efforts that the standard is met.</p>	

<p><b>Provider:</b> The community offers public transportation through Phillips County Transport and staff assists members with scheduling for appointments and community outings. The facility also offers transportation services. Members are involved with various community programming. Examples include public entertainment such as holiday parades, shopping, dining out, bazaars, local sporting events and religious services.</p>	<input checked="" type="checkbox"/> Met <input type="checkbox"/> Not Met <input type="checkbox"/> N/A
<p><b>Description of how the facility directly supports and enhances an individual’s access to the broader community.</b></p>	
<p>Department: The Department reviewed documentation provided by Rivers Bend, including Activity Calendars and Assisted Living Facility Resident Agreements, and also conducted staff and resident interviews to confirm the facility supports, enhances, assists and encourages individual access to the broader community.</p>	
<p><b>Provider:</b> The facility assists members with scheduling of transportation services. Transportation is provided by the facility, public transportation, or families. The facility provides outing to shopping areas and opportunities for dining and entertainment.</p>	<input checked="" type="checkbox"/> Met <input type="checkbox"/> Not Met <input type="checkbox"/> N/A
<p><b>A summary of examples of how schedules are varied according to individual beneficiaries’ preferences and in recognition of the need to integrate into the local community at times when the general community attends an activity.</b></p>	
<p>Department: Through the onsite visit along with staff and resident interviews, the Department can confirm schedules are varied and specific to the individuals’ preferences as outlined in service plans. Example 1: One resident has family members that visit frequently. Her schedule varies greatly depending on outings she may take with family members when they visit. Example 2: One resident prefers to sleep late and does not like to participate in outings with staff but does go to appointments with his daughter and enjoys the time spent with her. Example 3: One resident enjoys shopping, dining at restaurants and attending bazaars with staff. Rivers Bend ensures members have access to events and activities in the community.</p>	
<p><b>Provider:</b> Each resident’s schedule and activity preferences are varied and unique in accordance with their preferences. Individuals’ activities often take place at different times and locations. The facility staff strive to accommodate these preferences. Facility staff aid with scheduling, arranging transportation, and scheduling meals so that members may participate in a variety of community events.</p>	<input checked="" type="checkbox"/> Met <input type="checkbox"/> Not Met <input type="checkbox"/> N/A
<p><b>Procedures in place to routinely monitor individual access to services and activities of the broader community to the extent identified in person centered service plans.</b></p>	

<p>Department: The Department verifies the standard is met by resident preference and choices identified in the person-centered service plans as a standard practice with routine reviews.</p>	
<p>Provider: The facility conducts bi-annual reviews of individual's person-centered services plans. These plans include preferences for service and activities within the broader community. The facility updates person-centered service plans more frequently as required by state regulations, or whenever significant changes in service needs or preferences occur.</p>	<input checked="" type="checkbox"/> Met <input type="checkbox"/> Not Met <input type="checkbox"/> N/A
<p><b>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 state plan amendment or in community training policies and procedures established by the state.</b></p>	
<p>Department: The Department provides training and education to providers on a bi-annually basis regarding the role of person-centered planning within the HCBS delivery systems. In addition, the department posts guidance related to the settings criteria on the Department website.</p>	
<p>Provider: Facility staff receive ongoing training at regular intervals. New staff have initial facility orientation, which includes training new staff to review the resident's person-centered service plans. Service plans are updated every six months, or more frequently as required by state regulations. Service plans are also updated whenever significant changes in service needs or preferences occur. Staff receive training when changes are made to the resident's person-centered service plans.</p>	<input checked="" type="checkbox"/> Met <input type="checkbox"/> Not Met <input type="checkbox"/> N/A
<p><b>Description of the setting's proximity to public transportation or how transportation is facilitated.</b></p>	
<p>Department: The Department verified that community transportation is available and easily accessible to members through Phillips County Transport. Members have choice and access to the greater community. Members regularly attend community activities using the facility transportation options. Staff assists members in scheduling and arranging for public transportation and facility transportation.</p>	
<p>Provider: Public transportation services are provided by Phillips County Transport. Staff assists with scheduling and residents are picked up at the facility. Phillips County Transport assists residents to appointments and community events. The facility also offers ground transportation to appointments, and community outings (shopping, dining,</p>	<input checked="" type="checkbox"/> Met <input type="checkbox"/> Not Met <input type="checkbox"/> N/A

<p>activities). Appointments are scheduled with the facility scheduler and placed on the facility transportation schedule.</p>	
<p><b>Attestation that the state has reviewed provider-owned or controlled settings and concluded through observation made during an onsite visit and/or through a reasonable sample of consumer interviews, or through a review of person-centered service plans that any modifications to the settings criteria are documented in person-centered service plans as required by the regulation.</b></p>	
<p>Department: The Department completed an onsite visit, reviewed documentation, and conducted staff and resident interviews. The Department attests that this regulation is met by Rivers Bend as required.</p>	<p><input checked="" type="checkbox"/> Met  <input type="checkbox"/> Not Met  <input type="checkbox"/> N/A</p>
<p><b>Description of the setting’s remediation plan to achieve compliance by the end of the transition period, along with the state’s oversight to ensure completion of actions.</b></p>	
<p>Department: There is no remediation plan required for Rivers Bend, as the Department confirms compliance with the HCBS standards. The Department will continue to provide on-going monitoring and oversight as required.</p>	<p><input type="checkbox"/> Met  <input type="checkbox"/> Not Met  <input checked="" type="checkbox"/> N/A</p>
<p><b>Attestation that the setting has been selected by the individual from among settings options, including non-disability-specific settings.</b></p>	
<p>Department: The Department completed an onsite visit, reviewed documentation, and conducted staff and resident interviews. The Department attests that HCBS as well as non-HCBS members are given the choice of settings options for their long term care service delivery. Member choice and rights are acknowledged and documented throughout the service planning process.</p>	<p><input checked="" type="checkbox"/> Met  <input type="checkbox"/> Not Met  <input type="checkbox"/> N/A</p>
<p>March 22, 2019  SMD # 19-001  Re: Home and Community-Based Settings Regulation – Heightened Scrutiny  <a href="#">Heightened Scrutiny SMD-SMDL Final (medicaid.gov)</a></p>	

## HCBS Characteristics and Qualities

<p><b>The setting is selected by the individual from setting options, including non-disability specific settings (such as a typical job in the community or living in one’s own home) and an option for a private unit in a residential setting.</b></p>	
<p>Application for a §1915(c) Home and Community-Based Waiver [Version 3.6, January 2019] Instructions, Technical Guide and Review Criteria Instructions: Version 3.6 HCBS Waiver Application Appendix C-5: Home and Community-Based Settings Requirements- Page 150</p>	
<p>Department: The Department attests Rivers Bend meets this standard and that the setting is integrated in and supports full access to the greater community. 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.</p>	<p><input checked="" type="checkbox"/> Met <input type="checkbox"/> Not Met <input type="checkbox"/> N/A</p>
<p><b>Ensures an individual’s rights to privacy, dignity, and respect, and freedom from coercion and restraint.</b></p>	
<p>Application for a §1915(c) Home and Community-Based Waiver [Version 3.6, January 2019] Instructions, Technical Guide and Review Criteria Instructions: Version 3.6 HCBS Waiver Application Appendix C-5: Home and Community-Based Settings Requirements- Page 150 Montana Code Annotated Part 8. Montana Elder and Persons with Developmental Disabilities Abuse Prevention Act <a href="https://leg.mt.gov/bills/mca/title_0520/chapter_0030/part_0080/sections_index.html">https://leg.mt.gov/bills/mca/title_0520/chapter_0030/part_0080/sections_index.html</a> Montana Code Annotated Rights of Long-Term Care Facility Residents <a href="https://leg.mt.gov/bills/mca/title_0500/chapter_0050/part_0110/section_0040/0500-0050-0110-0040.html">https://leg.mt.gov/bills/mca/title_0500/chapter_0050/part_0110/section_0040/0500-0050-0110-0040.html</a> Adult Protective Services <a href="https://dphhs.mt.gov/SLTC/aps/index">https://dphhs.mt.gov/SLTC/aps/index</a> Long Term Care Ombudsman Program <a href="https://dphhs.mt.gov/sltc/aging/longtermcareombudsman/">https://dphhs.mt.gov/sltc/aging/longtermcareombudsman/</a> Office of Inspector General- Licensure Bureau <a href="https://dphhs.mt.gov/qad/licensure/">https://dphhs.mt.gov/qad/licensure/</a></p>	
<p>Department: The Department performed an onsite visit and conducted staff and resident interviews to verify that members have privacy, opportunities for community involvement, and can exercise individual choices. The Department can attest that Rivers Bend meets this standard and that the setting ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint. The facility 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.</p>	<p><input checked="" type="checkbox"/> Met <input type="checkbox"/> Not Met <input type="checkbox"/> N/A</p>

<b>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.</b>	
Application for a §1915(c) Home and Community-Based Waiver [Version 3.6, January 2019] Instructions, Technical Guide and Review Criteria Instructions: Version 3.6 HCBS Waiver Application Appendix C-5: Home and Community-Based Settings Requirements- Page 150	
Department: The Department attests that Rivers Bend meets this standard.	<input checked="" type="checkbox"/> Met <input type="checkbox"/> Not Met <input type="checkbox"/> N/A
<b>Facilitates individual choice regarding services and supports and who provides them.</b>	
<b>(a) The freedom and support to control their own schedules activities, and have access to food at any time (42 CFR 441.301(c)(4)).</b>	
The department attests that members have choices of and access to food at any time, as per 42 CFR 441.301(c)(4)(vi)(C)], as supported through the provider self-assessment, the on-site evaluation report conducted by , department staff as well as staff interviews and resident interviews.	
Provider: Members have the ability to come and go from the facility on their own schedules. They can choose to stay in or go out into the community at their leisure. All apartments have refrigerators so that members have the ability to access foods that they prefer at any time. The facility offers members three prepared meals per day. Members are encouraged to participate in meal service, but they may choose not to. Snacks are also available for individuals.	<input checked="" type="checkbox"/> Met <input type="checkbox"/> Not Met <input type="checkbox"/> N/A
<b>(b) Individuals may have visitors at any time. (42 CFR 441.301(c)(4)(vi)).</b>	
Provider: Members are able to have visitors 24 hours each day. Members make their own decisions in regard to having visitors.	
<input checked="" type="checkbox"/> Met <input type="checkbox"/> Not Met <input type="checkbox"/> N/A	
<b>(c) Individual units have entrance (and bathroom) doors that individuals can lock for dignity, privacy, and security.</b>	

<p>Application for a §1915(c) Home and Community-Based Waiver [Version 3.6, January 2019] Instructions, Technical Guide and Review Criteria Instructions: Version 3.6 HCBS Waiver Application Appendix C-5: Home and Community-Based Settings Requirements- Page 150</p>	
<p><b>Provider:</b> Members have full privacy within their individual rooms. All room doors have locks to ensure privacy. Member rooms have a locking entry door, bedroom door and bathroom door.</p>	<input checked="" type="checkbox"/> Met <input type="checkbox"/> Not Met <input type="checkbox"/> N/A
<p><b>(d) Individuals sharing units have the documented choice of roommates.</b></p>	
<p>Application for a §1915(c) Home and Community-Based Waiver [Version 3.6, January 2019] Instructions, Technical Guide and Review Criteria Instructions: Version 3.6 HCBS Waiver Application Appendix C-5: Home and Community-Based Settings Requirements- Page 150</p>	
<p><b>Provider:</b> There are no individuals sharing a room in the facility. The facility allows spouses to share a room if desired, but the member has the choice.</p>	<input checked="" type="checkbox"/> Met <input type="checkbox"/> Not Met <input type="checkbox"/> N/A
<p><b>(e) Individuals have freedom to furnish or decorate their private living spaces.</b></p>	
<p>Application for a §1915(c) Home and Community-Based Waiver [Version 3.6, January 2019] Instructions, Technical Guide and Review Criteria Instructions: Version 3.6 HCBS Waiver Application Appendix C-5: Home and Community-Based Settings Requirements- Page 150</p>	
<p><b>Provider:</b> Members are able to make their own choices in regard to how they furnish or decorate their apartments. The facility encourages members to bring their own furniture and decorations to make the apartment their home.</p>	<input checked="" type="checkbox"/> Met <input type="checkbox"/> Not Met <input type="checkbox"/> N/A
<p><b>(f) Individuals have a pleasant dining experience, can have a mealtime and place of their choosing, and have access to food, beverages, and snacks at any time.</b></p>	
<p>The department attests members have choice and access to food at any time, as per 42 CFR 441.301(c)(4)(vi)(C)], as supported through the provider self-assessment, the on-site evaluation visit and report as well as, staff interviews and resident interviews.</p>	
<p>Application for a §1915(c) Home and Community-Based Waiver [Version 3.6, January 2019] Instructions, Technical Guide and</p>	

Review Criteria Instructions: Version 3.6 HCBS Waiver Application Appendix C-5: Home and Community-Based Settings Requirements- Page 150	
<b>Provider:</b> The facility offers three meals per day. Members are not assigned a table or any particular seat. Members have the ability to pick their own table and sit with individuals of their choice. Members are offered alternatives if they are not able to attend meal service. For example, the facility is able to provide room trays or meals to go upon request.	<input checked="" type="checkbox"/> Met <input type="checkbox"/> Not Met <input type="checkbox"/> N/A
<b>The policies and procedures of setting align with the requirements of the settings rule.</b>	
Application for a §1915(c) Home and Community-Based Waiver [Version 3.6, January 2019] Instructions, Technical Guide and Review Criteria Instructions: Version 3.6 HCBS Waiver Application Appendix C-5: Home and Community-Based Settings Requirements- Page 150	
<b>Provider:</b> Facility policy and procedures align with Montana Administrative Rules.	<input checked="" type="checkbox"/> Met <input type="checkbox"/> Not Met <input type="checkbox"/> N/A
<b>If an individual is determined to require a modification to the provider-owned or controlled residential settings requirements, the need is individually assessed and documented in the individuals person-centered service plan.</b>	
Application for a §1915(c) Home and Community-Based Waiver [Version 3.6, January 2019] Instructions, Technical Guide and Review Criteria Instructions: Version 3.6 HCBS Waiver Application Appendix C-5: Home and Community-Based Settings Requirements- Page 150 Appendix D: Participant-Centered Planning and Service Delivery- Page 190	
<b>Provider:</b> Each member has their own individualized service plan. If a member requires modifications to maintain independence, those modifications would be assessed and documented in the member’s service plan.	<input checked="" type="checkbox"/> Met <input type="checkbox"/> Not Met <input type="checkbox"/> N/A
<b>Documenting when decisions are made by the individual, and when they are made by the individual’s designated representative Individuals with advanced dementia or other conditions may no longer be able to respond to questions or communicate in words, including to demonstrate their choices or consent, the person-centered planning process must still involve them to the maximum extent possible and reflect the individual’s preferences. Person-centered service planning in this instance will include the input of</b>	



<b>an authorized representative or support person.</b>	
Application for a §1915(c) Home and Community-Based Waiver [Version 3.6, January 2019] Instructions, Technical Guide and Review Criteria Instructions: Version 3.6 HCBS Waiver Application Appendix C-5: Home and Community-Based Settings Requirements- Page 150 Appendix D: Participant-Centered Planning and Service Delivery	
<b>Provider:</b> The facility would request that the Power of Attorney or other authorized individual assist in members person-centered planning process. Therefore, the resident would continue to participate in the planning process but would have the necessary assistance to make individualized decisions regarding services provided.	<input checked="" type="checkbox"/> Met <input type="checkbox"/> Not Met <input type="checkbox"/> N/A
<b>Controlled Egress Settings</b>	
<b>If an individual has chosen a setting with controlled egress (e.g., secured dementia care unit or home or secured entry buildings), the person-centered service plan documents the choice, including the other settings considered.</b>	
Note: Settings with controlled egress must document each resident’s need for the intervention as well as provide ways for members without the need for restriction to safely come and go	
Application for a §1915(c) Home and Community-Based Waiver [Version 3.6, January 2019] Instructions, Technical Guide and Review Criteria Instructions: Version 3.6 HCBS Waiver Application Appendix C-5: Home and Community-Based Settings Requirements- Page 150 Appendix D: Participant-Centered Planning and Service Delivery	
<b>Provider:</b> The facility does not have controlled egress for assisted living.	<input type="checkbox"/> Met <input type="checkbox"/> Not Met <input checked="" type="checkbox"/> N/A
The federal HCB Settings regulations focus on community integration, individual choice and privacy, and other factors that relate to an individual’s experience of the setting as being home-like and not that of an institutional setting. 42 C.F.R. § 441.301(c)(4)(vi) <a href="#">CFR: 42 CFR Part 441 Subpart G -- Home and Community-Based Services: Waiver Requirements</a>	

## Significant DPHHS Review Information for Rivers Bend Assisted Living Facility

<p>Detailed Facility Information</p> <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> Facility Activities Calendar</li> <li><input checked="" type="checkbox"/> Community Activities and Integration Opportunities</li> <li><input checked="" type="checkbox"/> Meal Menu</li> <li><input checked="" type="checkbox"/> Transportation Options and Policy</li> <li><input checked="" type="checkbox"/> Resident Service/Care Plan</li> <li><input checked="" type="checkbox"/> HCBS Service Plan</li> <li><input type="checkbox"/> Controlled Egress Policy (if applicable)</li> <li><input checked="" type="checkbox"/> Visitation Access and Policy</li> <li><input checked="" type="checkbox"/> Resident and Member Interviews</li> <li><input checked="" type="checkbox"/> Staff Interviews</li> <li><input checked="" type="checkbox"/> Resident Handbook</li> <li><input checked="" type="checkbox"/> Resident Agreement</li> <li><input checked="" type="checkbox"/> Community Chamber of Commerce Detail</li> <li><input checked="" type="checkbox"/> Montana Office of Inspector General Survey Results</li> <li><input checked="" type="checkbox"/> HCBS Member Records</li> <li><input checked="" type="checkbox"/> HCB Settings Provider Self- Assessment(s)</li> <li><input checked="" type="checkbox"/> HCB Settings Validation Tool(s)</li> </ul>	<p>Heightened Scrutiny Evaluation <a href="https://dphhs.mt.gov/hcbs">https://dphhs.mt.gov/hcbs</a></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Public Notice</li> <li><input checked="" type="checkbox"/> Resident Interview 1</li> <li><input checked="" type="checkbox"/> Resident Interview 2</li> <li><input checked="" type="checkbox"/> Staff Interview 1</li> <li><input checked="" type="checkbox"/> Staff Interview 2</li> </ul>
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## Public Comment

The public notice is still in process. The Department has no reason to expect comments that would change the determination. The Malta community is supportive of this facility. On November 14, 2023, the Department received a letter of support from Phillips County Hospital located in Malta, Montana.

## Montana's Recommendation

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Montana DPHHS validates that in accordance with the federal home and community-based services (HCBS) regulations found at 42 CFR Section 441.301(c)(4)(5), Rivers Bend Assisted Living located in Malta, Montana complies with the Federal HCBS Settings rules. As a result, Montana wishes to maintain active HCBS service delivery in this setting; therefore, HCBS provider termination efforts to include the development of a strategic HCBS member transition plan is not required.