

December 2, 2019

Dakota Pointe

The ND State Settings Review Committee met on November 25, 2019 and determined that Dakota Pointe Adult Residential met all Settings Rule Compliance terms.

The Department will continue monitoring to ensure ongoing compliance.

Thank you for your cooperation and let us know if you have any questions.

I am attaching the Settings Summary which will be posted on the Department of Human Services website.

Sincerely,

Shirley Fender, RN
HCBS Program Administrator
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MEDICAL SERVICES

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

Friday March 1, 2019 by Deb Vesey, BSN, RN, Program Administrator and Shannon Strating HCBS Program Administrator

Dakota Pointe is a licensed Basic Care Facility that specializes in providing care to individuals with traumatic brain injury who require protective oversight because of behavior, elopement, or wandering issues. The setting is not a secured facility. It is accessible, located in a residential area with access to provider owned and public transportation. There are no physical barriers surrounding the property.

The Basic Care License, Medication error reporting, Elopement Policy (included in Handbook), HIT Calling Tree and an updated "Dakota Pointe Residential Admission Contract" which included a Grievance Procedure is included in the evidence package. The Complaint/Grievances process is also included in the Resident Handbook. Dakota Pointe Elopement policy is included in the Resident Handbook. Dakota Pointe capacity is 10.

April 30, 2018, a site visit was held with Dakota Pointe 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 the CMS power point "Monitoring of Compliance with the Home and Community-Based Setting Requirements, 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 Service Payments For Elderly and Disabled Program and the Medicaid Waiver For the Aged and Disabled Program as resources to provide education during the call.

The assessment tool was completed on site and the State then provided a written summary of suggestions and areas that needed change in order 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.

March 1, 2019 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 and conducted a care plan review. An in-person survey was conducted with three of the consumers who were their own legal decision maker and phone interviews were conducted with seven 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.

Qualified Service Provider application renewal is due June 2020 and the facility has received the new Critical Incident Reporting Requirements for Qualified Service Providers.

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 legal decision makers and consumers interviewed stated they choose to live at Dakota Pointe.</p> <p>The facility is ADA accessible.</p> <p>Dakota Pointe has a legally enforceable agreement following ND landlord tenant laws.</p> <p>There is an operational video surveillance camera in the common area for security.</p> <p>Supporting Documentation:</p> <ul style="list-style-type: none"> • Lease Agreement • Dakota Pointe pamphlet • Site Visit and Observation by state staff summary • Survey with consumers and legal decision makers
<p>Provides opportunities to seek employment and work in competitive integrated settings, engage in community life, and control personal resources.</p>	<p>All consumers are either retired, currently volunteer or work in competitive employment situations.</p> <p>Consumers can continue employment or volunteering based on their person-centered goals.</p> <p>The consumer, power of attorney, or family control finances, the consumer can keep money in their possession if they desire. Dakota Pointe strongly encourages residents to keep valuables with trusted individual outside of facility due to facility unsecured.</p> <p>The consumer meets weekly with facility assigned staff to determine activities and spending money needed per guidance from the legal decision maker.</p> <p>A 10 consumers or legal decision makers stated the facility assists with any desire to work or volunteer.</p> <p>Engaging in community life is addressed below.</p> <p>Supporting Documentation:</p> <ul style="list-style-type: none"> • Resident Handbook • Storage of Valuables and Money (Included in Resident Handbook). • Survey with consumers and legal decision makers
<p>Is integrated in and supports access to the greater community</p>	<p>All 10 of the consumers use public transit to either go to work, volunteer, or for outings away from the facility.</p>

If there are restrictions on use of transit per legal decision maker, it is documented in person-center care plans.

Consumers are supported in their choice to work or volunteer.

Activity Calendars are posted to inform consumer and family of activities within the facility.

The consumer can utilize the internet or paper to determine activities outside of the facility.

Resident Council and weekly group sessions allow the consumer to plan activities and community outings of interest. If consumer notes an activity of interest, they notify staff. 1:1 activity is also planned for the consumer. A weekly activity and shopping list are developed with each consumer.

The person-centered plan of care is individualized for each consumer.

The family/natural supports are encouraged to take the consumer out into the broader community.

Activity Participation logs and outing information are kept for consumers and reviewed at quarterly care conferences to determine community integration needs and restrictions.

There is an unsecured patio with chairs and grill for use.

Everyone accesses the building and units the same way. Dakota Pointe is unsecured with the doors locked from 11 pm to 6 am. Access is obtained by ringing the doorbell or calling the facility during these hours.

Consumers are asked to sign in and out for security purposes. There are no consequences if forget to sign the check in and out book.

All legal decision makers and consumers interviewed who are their own decision maker stated the facility has no rules preventing participation in activities and ability to come and go. One consumer who was his own decision maker stated, "it depends on the care plan".

	<p>Supporting Documentation:</p> <ul style="list-style-type: none"> • Resident Handbook • Calendar of Events • Person Centered Plan of Care • Survey with consumers and legal decision makers • Site Visit and Observation by state staff
<p>Optimizes individual initiative, autonomy, and independence in making life choices</p>	<p>The Resident Handbook and 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 interviews with the consumer’s legal decision makers and consumers indicated knowledge of these rights. One consumer who was their own decision maker was not sure.</p> <p>Mail is delivered to each consumer by staff on duty.</p> <p>The consumer is responsible for their personal laundry. If assistance is needed the staff will assist.</p> <p>Supporting Documentation:</p> <ul style="list-style-type: none"> • Resident Handbook • Basic Care Resident Rights Booklet • Site Visit and Observation by state staff • Survey with consumers and legal decision makers
<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 and a shared bathroom. The bathroom doors have locks.</p> <p>The consumer may request a room change if conflicts.</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>Resident handbook states if the resident desires to use the public phone in a private area, the resident will need to request the facility cordless phone to take to their room. The consumer can have radios, television, computers in their room. There is WI Fi.</p> <p>Staff training includes Resident Rights and topics of dignity and respect.</p> <p>Medications are given in private by the consumer coming to the nurse’s office. The door to the medication office is closed when no one is in the office.</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 • Medication Service Overview (included in handbook) • Basic Care Resident Rights Booklet • Notice of Privacy (HIT) • Resident Record Policy • Site Visit and Observation by state staff • Survey with consumers and legal decision makers
<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>The consumer takes transit for services they desire as church, salon/barber, or any other activities of choose.</p> <p>Consumer medical care is provided per own preference.</p> <p>Supporting Documentation:</p> <ul style="list-style-type: none"> • Resident Handbook • Resident Rights Booklet • “Resident Complaint/Grievance” policy is included in the Resident Handbook. • Site Visit and Observation by state employees • Staff Training Folder • Survey with consumers and legal decision makers
<p>Ensures the individual receives services in the community to the same degree of access as individuals not receiving Medicaid HCBS</p>	<p>All consumers are treated the same. Consumers can eat in place of their choosing.</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 consumers and legal decision makers
<p>Person-centered service plan</p>	<p>HCBS utilizes 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</p>

	<p>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 quarterly participation percentages are reviewed to ensure community integration and activities. Goals are set to work towards independence.</p> <p>Supporting Documentation:</p> <ul style="list-style-type: none"> • Person Centered Care Plan Review by State staff • Participation review in Care plans • Care Note review • Dakota Pointe Care Plan review • HCBS Care Plan review
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<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 consumers or legal decision makers 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 consumers have keys to their rooms. The bathroom is shared and has lockable doors. All consumers and legal decision makers stated the consumer got along with the consumer they shared the bathroom with. All know they could change rooms if needed and another room was available.</p> <p>The consumers rooms were furnished according to the desire of the consumer and reflected personal taste, hobbies, and interest.</p> <p>All legal decision makers and the consumers who were their own decision maker stated they felt safe. They all stated they knew how to file a grievance.</p> <p>Supporting Documentation:</p> <ul style="list-style-type: none"> • Resident Handbook • Lease Agreement • Site Visit and Observation by state staff • Survey with consumers and legal decision makers
<p>The individual controls his/her own schedule including access to food at all times</p>	<p>If a menu is not acceptable, an alternate can be prepared. There are no assigned seats.</p>

	<p>Snacks are available throughout the day.</p> <p>The Resident Handbook states “Although food is kept in locked areas, residents have the right to access food at any time.</p> <ul style="list-style-type: none"> • This right was acknowledged by all the consumers and legal decision makers. • Two of the consumers stated, you just have to ask. • One consumer felt they could not eat at night • Two legal decision makers stated consumer has hoarding issues and did not mind the food is locked because they can always get food. • One legal decision maker stated could have food in the room but would eat it all. <p>The Resident Handbook states “If resident chooses to have food or a refrigerator in their room, they must follow the proper storage and expirations dates”. Consumers and legal decision makers understand they can choose to have a fridge.</p> <p>The Resident Handbook states radios, televisions, and computers in the resident rooms may be operated at any time, if not disruptive. A shared computer is available.</p> <p>The Resident Handbook 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>Most of those interviewed states there was no required schedule.</p> <p>Supporting Documentation:</p> <ul style="list-style-type: none"> • Resident Handbook • Site Visit and Observation by state staff • Survey with consumers and legal decision makers
<p>The individual can have visitors at any time</p>	<p>Overnight guests are allowed and there are no designated visiting hours.</p> <p>The outside doors are locked between 11:00 pm and 6:00 am for the safety of residents and staff.</p> <p>Interviews with consumers and legal decision makers indicated that family is encouraged to visit and there were</p>

	<p>no visiting hours.</p> <p>Supporting Documentation:</p> <ul style="list-style-type: none"> • Resident Handbook • Survey with consumers and legal decision makers
<p>The setting is physically accessible</p>	<p>The setting is located within a residential area in Mandan. The setting is ADA accessible.</p> <p>Supporting Documentation:</p> <ul style="list-style-type: none"> • Site Visit and Observation by state employees

<p>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.</p> <p>March 1, 2019 Interviews were conducted onsite with the consumers who were their own legal decision makers. Then, state staff conducted phone interviews with the consumers legal decision maker/Power of Attorney.</p>
<p>Quarterly Activity logs:</p> <p>Dakota Pointe documents quarterly the activities the consumer participates in group which includes current events, activity planning, appointment planning, social skills, mental health, ADL skills, nutrition, and snack planning. Documentation shows a % in which the consumer is active, passive, or absent. Quarterly Assessment documentation includes the % of compliancy with independent living to include % chores done independently, % needing verbal prompting, % needing verbal assist, % needing physical assist, and percent absent.</p> <p>A list of activities out of the facility are listed in each quarterly care plan. All the consumers are active inside and outside of the facility. Consumers meet with staff weekly to assist with planning funding needed for activities for the week.</p> <ol style="list-style-type: none"> 1. The consumer states they can come and go as much as pleases. The only thing stopping is signing in and out. 2. The legal representative states the consumer can come and go as please by utilizing public transit. 3. The consumer interviewed stated can come and go. Enjoys going fishing. 4. The legal decision maker interviewed sates that consumer has no restrictions for activities and has a lot of involvement with family. Goes to concerts, trips, and swimming <p>An interview with all the consumers, legal decision makers and consumers who are their own legal decision maker was done.</p> <ul style="list-style-type: none"> • All state there are no rules preventing participation outside of the facilities. • The consumers who are their own decision maker stated they need to ask the staff first, so they know they are gone. One of the consumers who is their own legal decision maker stated, " I can go as much as I please". Another consumer who is their own legal decision maker stated, "I can go but needs approval of the care plan". • All consumers utilize public transit.

- All consumers are retired, volunteer or work in competitive employment settings.

<p>HCBS Settings requirement: The <i>Person-Centered Service Plan</i> 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.</p>	
<p>Must be timely and occur at times/locations convenient to all involved.</p>	<p>Power of Attorney for consumer stated that the care planning process is held at a convenient time and location. The POA knows that the consumer and family can invite anyone they choose. The legal decision makers and consumers who are their own decision maker, all knew who their case manager was and attended the last care plan meeting.</p>
<p>Reflects cultural considerations/uses plain language</p>	<p>Resident Handbook states, "Dakota Pointe will take reasonable steps to ensure that persons with Limited English Proficiency will have meaningful access and an equal opportunity to participate in our services, activities, and programs.</p>
<p>Discusses individual preference for community integration within and outside the setting.</p>	<p>Dakota Pointe has an elected resident council. Resident Meetings are held Monday through Thursday where life skills, activities, nutrition, current events, facility issues, etc. are discussed. The consumer meets with the staff 1:1 weekly to discuss their preferences.</p>
<p>Includes strategies for solving disagreement</p>	<p>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.</p>
<p>Offers choices to the individual regarding services and supports the individual receives and from whom</p>	<p>The care plan indicates the type of services that are being provided are based on the consumers preference.</p>
<p>Provides method to request updates</p>	<p>Resident meetings are held Monday-Thursday.</p>
<p>Reflects what is important to the individual to ensure delivery of services in a manner reflecting personal preferences and ensuring health and welfare</p>	<p>Goal 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.</p>
<p>Identifies the individual's strengths, preferences, needs (clinical and support), and desired outcomes</p>	<p>Care planning includes Strengths, needs, goals and task.</p>
<p>May include whether and what services are self-directed and includes risks and plan to minimize them</p>	<p>Care planning includes risks.</p>
<p>Includes individually identified goals and preferences related to relationships, community participation, employment, income and savings,</p>	<p>Facility and the HCBS Care planning includes Identified goals and preferences related to values "What is important to client", Community Integration and Social Support, Family, Decision Making,</p>

healthcare and wellness, education and others	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:

April 15th, 2019

Reviewed by the following Committee members:

Nancy Nikolas Maier, Director of Aging Services
 Karla Kalanek, Developmental Disabilities Program Administrator
 Heidi Zander, Developmental Disabilities Program Administrator
 Karla Backman, State Long Term Care Ombudsman
 Katherine Barchenger, State Autism Coordinator
 Deb Vesey, HCBS Program Administrator
 Russ Korzeniewski, Risk Management Program Administrator

Requirements to Meet Compliance:

1. **Page 9:** Change language in resident handbook. "Each resident is assigned a case manager through Morton County". The consumer has a right to choose a case manager.
2. **Page 6 of Handbook # 25 regarding meals.** The committee determined that the wording is restrictive, and the wording needs to be less restrictive. Residents who can access food should have a way to access food without having to request. Please change wording in handbook.
3. **Behavior contracts:** Review "Behavior Contracts" and resend to the HCBS Program Administrator. Presently the behavior contracts do not meet care plan requirements. When setting a behavior contract the less restrictive method should be listed. Include what has been tried before. Send copies of the behavior contracts with the less restrictive methods that have been tried before and the outcome. Some of the contracts restrict access to the broader community.
4. **Storage of Valuables and Money (Page 53):** The committee felt the policy is restrictive. The consumer has the right to manage their money unless the restriction is documented in the person-centered care plan. Please send an updated revised policy.
5. **Overnight guests:** Add to the handbook that residents may have overnight quests.

Date of Compliance with above Requirements:

November 25, 2019

Committee Decision:

X Setting Fully Complies

Setting with additional changes will fully comply

- 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.**