

# HCBS Final Rule Evidentiary Package

Madonna Towers, T. Emil Gauthier Building



## Setting information

Setting name: Madonna Towers	ID # 20211
Street address: 4001 19th Ave. NW, Rochester, MN 55901	Phone: 507-288-3911
Setting website, if applicable: <a href="https://www.madonnalivingcommunity.org/madonna-towers-of-rochester">Madonna Living Community of Rochester</a> ( <a href="https://www.madonnalivingcommunity.org/madonna-towers-of-rochester">https://www.madonnalivingcommunity.org/madonna-towers-of-rochester</a> )	Date of site visit: 6/4/2018

## Waiver service type

Waiver service	Service type:
<input type="checkbox"/> Alternative Care (AC) <input checked="" type="checkbox"/> Elderly Waiver (EW) <input type="checkbox"/> Brain Injury (BI) <input type="checkbox"/> Community Access for Disability Inclusion (CADI) <input type="checkbox"/> Community Alternative Care (CAC) <input type="checkbox"/> Developmental Disabilities (DD)	Customized Living

## Reason for heightened scrutiny

Prong type	Category	Type of setting
Prong 1 Located in a Public or Private Institution	Name of Institution	Choose an item. Madonna Towers Skilled Nursing Care Center

Note: The term people/person (resident for residential settings) refers to people who receive Medicaid HCBS waiver service

## General summary

Madonna Towers is a continuum-of-care campus in Rochester, an urban city in the southeastern part of the state. Rochester’s population, according to the 2010 census, was 106,769.

The Madonna Towers campus offers customized living, with two settings providing memory care services, skilled nursing and rehabilitation services. The setting visited was the T. Emil Gauthier memory care building. This setting is located in a residential area, close to many businesses, homes and churches.

The T. Emil Gauthier building has a total of 14 units, 12 private rooms and two semi-private rooms. Five of the 16 units are occupied by people using the Elderly Waiver.

## Customized living provider standards/qualifications

Licensure requirements and other state regulations for customized living services clearly distinguish these services/settings from institutional licensure or regulations.

Customized living services are provided in housing-with-services establishments with the service provider directly licensed as a comprehensive home care provider by the Minnesota Department of Health. Customized living services provide an individualized package of regularly scheduled health-related and supportive services provided to a person who resides in a qualified, registered housing-with-services establishment.

# Customized living service definitions that support the setting requirements

Customized living (CL) and 24-hour CL services include component services designed to meet the person’s assessed needs and goals. Individualized CL services may include supervision, home care aide tasks (e.g., assistance with activities of daily living), home health aide task (e.g., delegated nursing tasks), home management tasks, meal preparation and service, socialization, assisting enrollees with arranging meetings and appointments, assisting with money management, assisting participants with scheduling medical and social services, and arranging for or providing transportation. If socialization is provided, it must be part of the service plan, related to established goals and outcomes and not diversional or recreational in nature.

For more details about the component services, including what is covered and distinctions between each see [Customized Living Component Service Definitions, DHS-6790H \(PDF\)](#).

(<https://edocs.dhs.state.mn.us/lfserver/Public/DHS-6790H-ENG>)

Minnesota’s Community Based Services Manual (CBSM) provides the following requirements for customized living services:

[CBSM page on Customized Living](#)



([http://www.dhs.state.mn.us/main/idcplg?IdcService=GET\\_DYNAMIC\\_CONVERSION&RevisionSelectionMethod=LatestReleased&dDocName=id\\_001787#](http://www.dhs.state.mn.us/main/idcplg?IdcService=GET_DYNAMIC_CONVERSION&RevisionSelectionMethod=LatestReleased&dDocName=id_001787#))

## Prong 1 and Prong 2 settings

### Meaningful distinction between the facility and HCBS setting

**States must submit strong evidence that the setting presumed institutional has the characteristics of a HCBS setting and not an institutional setting.**

Determination	Summary
<input checked="" type="checkbox"/> Met <input type="checkbox"/> Unmet <input type="checkbox"/> Not applicable	<p><b>Interconnectedness between the facility and the setting in question, including administrative or financial interconnectedness, does not exist or is minimal.</b></p> <p>The campus is affiliated with The Benedictine Health System. The Madonna campus has one CEO, but the customized living settings and nursing facility operate separately. The housing director oversees the customized living/housing departments, including the customized living nursing and activity staff. The nursing facility departments are managed by the administrator of the nursing facility. The director of nursing in the customized living setting does not oversee the nursing facility staff. The activity director oversees the staff in the customized living setting, not the nursing facility.</p>

<input checked="" type="checkbox"/> Met <input type="checkbox"/> Unmet <input type="checkbox"/> Not applicable	<p><b>To the extent any facility staff are assigned occasionally or on a limited basis to support or back up the HCBS staff, the facility staff are cross-trained to meet the same qualifications as the HCBS staff;</b> (staff training materials that speak of the need to support individuals’ chosen activities), (person centered planning) (the staff is trained specifically for home and community-based support in a manner consistent with the HCBS settings regulations.)</p> <p>There are no staff that work both in the customized living and the nursing facility. The resident assistants (nursing assistants) and activity staff only provide care in the customized living setting.</p>
<input checked="" type="checkbox"/> Met <input type="checkbox"/> Unmet <input type="checkbox"/> Not applicable	<p><b>Participants in the setting in question do not have to rely primarily on transportation or other services provided by the facility setting, to the exclusion of other options;</b> (Describe the proximity to avenues of available public transportation or an explanation of how transportation is provided where public transportation is limited.)</p> <p>The campus has its own company-owned shuttle. In addition, family often transports people to appointments.</p>
<input checked="" type="checkbox"/> Met <input type="checkbox"/> Unmet <input type="checkbox"/> Not applicable	<p><b>The setting provides HCBS services in a space that is distinct from the space in which institutional services are provided.</b></p> <p>There is a separate entrance to this setting, and it is connected to the nursing facility by a hallway and separating the two sites.</p> <div style="display: flex; align-items: flex-start;">  <div style="width: 600px;"> <p>There are signs to show which entrance is for which building.</p>  </div> </div>

## Community engagement opportunities and experiences

People living at Madonna Towers are offered community experiences so that they can be a part of the larger community. Some examples are:

- Lunch at local restaurants and diner
- Trips to Olmstead History Center
- Trips to the public library
- Volunteer opportunities at a dog shelter
- Delivering donated baked goods to a women's shelter and Transplant House
- Travel to Cindy's Closet to donate school supplies and make hats and gloves
- Trips to Oxbow Zoo
- Tours and visits to St. Mary's chapel
- Trips to Red Barn Learning
- Color Me Mine outing
- Downtown Rochester bus tour and popcorn

The activities offered on-site are religious services, exercise, memory games, daily news discussions, crafts, dice and card games, bingo, cooking and music. They also have a music therapy program, massage and aromatherapy and spiritual care.

People are asked about their interests for activities when they move in, and the activities director meets with them. They are also asked by staff after activities for feedback. The setting keeps a community resources binder available to people at all times. This includes events, phone numbers and transportation options.



People are informed of their activity options through a calendar that is distributed to them. In addition there is a daily schedule posted and verbal reminders are given by staff about upcoming activities. Because it's a memory care setting, staff may have to remind them several times about activities.

## HCBS characteristics

This section is a summary of the individual HCBS characteristics required in the HCBS rule. The findings for each characteristic are identified through the setting attestation documentation, on-site observation or both.	
HCBS Rule requirement	Compliance status (Please select)
<p><b>Each person at the setting has a written lease or residency agreement in place providing protections to address eviction processes and appeals.</b></p> <p><input checked="" type="checkbox"/> Compliant documentation submitted with attestation</p> <p><input type="checkbox"/> Observation made during on-site visit</p> <p>A compliant lease was submitted with the attestation. When interviewing a person, she couldn't recall if she had a lease or not but said she "doesn't handle that stuff."</p>	Compliant
<p><b>Each person at the setting has privacy in his/her sleeping or living unit including a lockable door.</b></p> <p><input checked="" type="checkbox"/> Compliant documentation submitted with attestation</p> <p><input checked="" type="checkbox"/> Observation made during on-site visit</p> <p>There were locks observed on the doors. I observed staff knocking on doors before entering and waiting for a response before entering.</p>	Compliant
<p><b>The setting facilitates that a person, who shares a bedroom, is with a roommate of his or her choice.</b></p> <p><input checked="" type="checkbox"/> Compliant documentation submitted with attestation</p> <p><input type="checkbox"/> Observation made during on-site visit</p> <p>Compliant policies were submitted with the attestation. This includes a person being informed of a right to choose their roommate, as well as the complaint/grievance process if the person is unhappy with his or her situation. Staff were trained on this as well.</p>	Compliant

<p><b>The setting provides people with the freedom to furnish and decorate their bedroom and living unit within the lease or residency agreement.</b></p> <p><input checked="" type="checkbox"/> Compliant documentation submitted with attestation</p> <p><input checked="" type="checkbox"/> Observation made during on-site visit</p> <p>During the site visit, apartments were observed to have been decorated with personal items, such as collectibles, sports memorabilia and photos.</p>	<p>Compliant</p>
<p><b>The setting provides people the freedom and support to control their daily schedules including access to food at any time.</b></p> <p><input checked="" type="checkbox"/> Compliant documentation submitted with attestation</p> <p><input checked="" type="checkbox"/> Observation made during on-site visit</p> <p>Staff interviewed said that if people miss a meal, that they may always ask for a snack. The kitchen always has cereal, yogurt, fruit, coffee and other snacks that people may have upon request.</p>	<p>Compliant</p>
<p><b>The setting allows people to have visitors at any time.</b></p> <p><input checked="" type="checkbox"/> Compliant documentation submitted with attestation</p> <p><input checked="" type="checkbox"/> Observation made during on-site visit</p> <p>Visitors were seen coming into the setting and signing in to visit someone. Observed someone visiting with what appeared to be a family member.</p>	<p>Compliant</p>
<p><b>The setting provides opportunities for people to seek employment and work in competitive integrated settings.</b></p> <p><input checked="" type="checkbox"/> Compliant documentation submitted with attestation</p> <p><input checked="" type="checkbox"/> Observation made during on-site visit</p> <p>Though no one is currently working or volunteering at this site, staff indicated that they would be flexible to support a decision to work or volunteer.</p>	<p>Compliant</p>



<p><b>The setting is physically accessible to the individual.</b></p> <p><input checked="" type="checkbox"/> Compliant documentation submitted with attestation</p> <p><input checked="" type="checkbox"/> Observation made during on-site visit</p> <p>The site was observed to be accessible, with wide hallways and accessible bathrooms.</p> <div style="display: flex; justify-content: space-around;">   </div>	<p>Compliant</p>
<p><b>The setting provides people opportunities to access and engage in community life.</b></p> <p><input checked="" type="checkbox"/> Compliant documentation submitted with attestation</p> <p><input checked="" type="checkbox"/> Observation made during on-site visit</p> <p>People do go off-site to see their doctors and visit with family. See community engagement section above.</p>	<p>Compliant</p>
<p><b>The setting supports the person's control of personal resources.</b></p> <p><input checked="" type="checkbox"/> Compliant documentation submitted with attestation</p> <p><input type="checkbox"/> Observation made during on-site visit</p> <p>The setting submitted a compliant policy about handling people's finances. The person interviewed did not have their money managed by the setting.</p>	<p>Compliant</p>



<p><b>The setting ensures people’s right to privacy.</b></p> <p><input checked="" type="checkbox"/> Compliant documentation submitted with attestation</p> <p><input checked="" type="checkbox"/> Observation made during on-site visit</p> <p>Setting submitted the Minnesota Home Care Bill of Rights. They use this document to inform people and the staff of a person’s right in this area. I saw staff people quietly talking with people about personal cares and saw a staff person close a door before assisting someone. Person interviewed said they felt they had privacy.</p>	<p>Compliant</p>
<p><b>The setting ensures people’s dignity and respect.</b></p> <p><input checked="" type="checkbox"/> Compliant documentation submitted with attestation</p> <p><input checked="" type="checkbox"/> Observation made during on-site visit</p> <p>Setting submitted the Minnesota Home Care Bill of Rights. They use this document to inform people and the staff of a person’s right in this area. Staff were observed to be treating people with respect. People were dressed neatly and materials around the setting were age appropriate.</p>	<p>Compliant</p>
<p><b>The setting ensures people’s freedom from coercion and restraint.</b></p> <p><input checked="" type="checkbox"/> Compliant documentation submitted with attestation</p> <p><input type="checkbox"/> Observation made during on-site visit</p> <p>Setting submitted the Minnesota Home Care Bill of Rights. They use this document to inform people and staff of a person’s right in this area.</p>	<p>Compliant</p>
<p><b>The setting optimizes individual initiative, autonomy, and independence in making life choices, including daily schedule and with whom to interact.</b></p> <p><input checked="" type="checkbox"/> Compliant documentation submitted with attestation</p> <p><input checked="" type="checkbox"/> Observation made during on-site visit</p> <p>Setting submitted the Minnesota Home Care Bill of Rights. They use this document to inform people and the staff of a person’s right in this area. Observed people who didn’t want to participate in a group activity tell the staff and then they had some space to do something else. In this case I saw one person reading a magazine and another person watching TV. Person interviewed said she feels like she can “do what I want.”</p>	<p>Compliant</p>

# Pictures of the HCBS setting



There is an enclosed, secure patio and garden area where people can walk and be outside.

There are quiet, home-like areas for people to visit with family or each other.



Accessible spa area



## Public comment summary

**The Minnesota Department of Human Services (DHS) did not receive public comments for this setting.**

DHS sought public comment from April 30, 2019, to June 9, 2019, before submitting settings to the Centers Medicare & Medicaid Services (CMS) for heightened scrutiny.

We sought public comments using the following methods:

- Evidentiary packages posted online on the [Home and Community Based Services Rule transition plan page](#)
- Evidentiary packages specific to each setting posted in a common area of the setting
- Notice of public comment period via [May 10, 2019, eList announcement](#)
- Notification to lead agencies via regional resource specialists
- Notification to providers via email
- Notification to managed care organizations and Area Agencies on Aging (AA) via email
- Notification to long-term care ombudsman office via email
- Disability Hub MN virtual insight panel.

## Minnesota's recommendation

**Date of recommendation: 7/1/2019**

Minnesota supports that this setting overcomes the institutional presumption and meets the requirements of a home and community-based setting. Provider is required to maintain on-going compliance with all HCBS requirements.