

# HCBS Final Rule Evidentiary Package

## Gervais 1729



### Setting information

Setting name: Gervais 1729	ID number: 24754
Street address: 1747 Gervais Ave Maplewood, MN, 55109	Phone: 218-348-2289
Website, if applicable: N/A	Date of site visit: 11/2/2018

## Waiver service type

Waiver service	Service type
<input type="checkbox"/> Alternative Care (AC) <input type="checkbox"/> Elderly Waiver (EW) <input checked="" type="checkbox"/> Brain Injury (BI) <input checked="" 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 3 Effects of isolating characteristics	Effect of isolating characteristic	Is one of multiple homes located on the same street or adjoining property that shares programming activities  Multiple same street

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

## General summary

Gervais 1729 is located in a residential area in a suburb of St. Paul (Maplewood, MN) with a population of about 40,000. It is close to retail stores, restaurants and public transportation. The setting is a single-family home located on the same street (but not adjacent to) another home operated by the same provider (Gervais 1747). The setting serves five people under the BI and CADI customized living 24-hour waiver service.

## 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 tasks (e.g., delegated nursing tasks), home management tasks, meal preparation and service, socialization, assisting people with arranging meetings and appointments, assisting with money management, assisting people 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) (<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 for customized living services](http://www.dhs.state.mn.us/id_001787#) ([http://www.dhs.state.mn.us/id\\_001787#](http://www.dhs.state.mn.us/id_001787#))

## Prong 3 settings

### Meaningful distinction between collocated settings

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>Describe the extent to which any shared programming (meals, transportation, social/recreational activities) occurs between different homes/buildings:</b></p> <p>The administrator reported the two homes share programs a few times a year. Examples include bingo nights and a Halloween party. Otherwise, the homes have separate activity calendars and do not interact. The site visitor observed different calendars in each home.</p>
<input checked="" type="checkbox"/> Met <input type="checkbox"/> Unmet <input type="checkbox"/> Not applicable	<p><b>Describe the extent to which staff are scheduled to work with people at the other collocated setting (s) on the same shift:</b></p> <p>The administrator and staff reported staffing is separate.</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 other co-located setting (s), to the exclusion of other options:</b></p> <p>A variety of transportation options are available. The administrator reported the two houses share a van for activities. Other transportation options include Metro Mobility, public bus, family, volunteer drivers, taxi/Uber and bicycle. The site visitor did not observe transportation options posted but was told people keep that information in their phones. A person interviewed reported they can do what they want to do and if they need help arranging transportation, staff will support them to arrange transportation.</p>

## Community engagement opportunities and experiences

The setting has monthly meetings, as well as one-on-one conversations with people to discuss activities and outings for the upcoming month. Each person can choose whether to take part in an activity. A person interviewed reported they like to go out into the community, and they do this more than twice a week. They reported, “staff let us know [about activities], and we can request places to go.” The site visitor observed postings about community events and activities.

The administrator reported some people go out into the community every day, and others go much less often; it depends on each person’s interests and preferences. The staff person said at this home, people generally go out on their own (without staff) monthly, generally with a family member.

Activities in the community include:

- Walmart
- Circus
- Thrift store
- Theater and live performances
- Picnics
- Coffee shops
- Movies
- Birthday dinners
- Bingo
- Volunteering
- Manicures.

## 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>Each person at the setting has a written lease or residency agreement in place providing protections to address eviction processes and appeals.</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>A person interviewed reported they have a lease.</p>	Compliant
<p>Each person at the setting has privacy in his/her sleeping or living unit including a lockable door.</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 visitor observed everyone has a lock on their door, unless they have a documented rights modification in their support plan.</p>	Compliant
<p>The setting facilitates that a person, <b>who shares a bedroom</b>, is with a roommate of their choice.</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>Each person has their own individual bedroom. A person interviewed reported they do not share their bedroom.</p>	Compliant
<p>The setting provides people with the freedom to furnish and decorate their bedroom and living unit within the lease or residency agreement.</p> <p><input checked="" type="checkbox"/> Compliant documentation submitted with attestation</p>	Compliant

HCBS Rule requirement	Compliance status (please select)
<input checked="" type="checkbox"/> Observation made during on-site visit  A person interviewed reported they can decorate their bedroom. The site visitor observed that people can furnish their rooms according to preference.	
The setting provides people the freedom and support to control their daily schedules including access to food at any time.  <input checked="" type="checkbox"/> Compliant documentation submitted with attestation <input checked="" type="checkbox"/> Observation made during on-site visit  A person interviewed reported they can get food whenever they want, and they can do what they want, when they want to do it.	Compliant
The setting allows people to have visitors at any time.  <input checked="" type="checkbox"/> Compliant documentation submitted with attestation <input checked="" type="checkbox"/> Observation made during on-site visit  A person interviewed reported they can have visitors at any time; the person’s daughter was there yesterday. The site visitor observed many sign-ins in the visitor log.	Compliant
The setting provides opportunities for people to seek employment and work in competitive integrated settings.  <input checked="" type="checkbox"/> Compliant documentation submitted with attestation <input checked="" type="checkbox"/> Observation made during on-site visit  The administrator reported no one is currently working at Gervais 1729. The agency policy reflects they provide flexible scheduling and activities during times that complement a person’s work schedule. The life enrichment manager meets with all residents within a week of moving in and on an ongoing basis thereafter. Obtaining employment is discussed at this time, and when a person does not express an interested in employment or is unable to obtain employment, the option of working will be discussed again within 90 days. The provider	Compliant

HCBS Rule requirement	Compliance status (please select)
will collaborate with the person’s support team when the person expresses interest in work.	
<p>The setting is physically accessible to the individual.</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>A person interviewed reported the setting is accessible to them. The site visitor observed people moving freely about the home.</p>	Compliant
<p>The setting provides people opportunities to access and engage in community life.</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>A person interviewed reported, “I come and go as I please.” The site visitor observed people coming and going.</p>	Compliant
<p>The setting supports the person’s control of personal resources.</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>A person interviewed reported they manage their own money.</p>	Compliant
<p>The setting ensures people’s right to privacy.</p> <p><input checked="" type="checkbox"/> Compliant documentation submitted with attestation</p> <p><input checked="" type="checkbox"/> Observation made during on-site visit</p>	Compliant
<p>The setting ensures people’s dignity and respect.</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 visitor observed staff treating people with dignity and respect.</p>	Compliant

HCBS Rule requirement	Compliance status (please select)
<p>The setting ensures people’s freedom from coercion and restraint.</p> <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> Compliant documentation submitted with attestation</li> <li><input checked="" type="checkbox"/> Observation made during on-site visit</li> </ul> <p>There were no signs of coercion or restraint observed during the on-site visit. People were moving about inside and outside the setting.</p>	Compliant
<p>The setting optimizes individual initiative, autonomy and independence in making life choices, including daily schedule and with whom to interact.</p> <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> Compliant documentation submitted with attestation</li> <li><input checked="" type="checkbox"/> Observation made during on-site visit</li> </ul> <p>A person interviewed reported, “I come and go as I please.” The staff person reported people can choose who they want to do things with.</p>	Compliant

# Pictures of the HCBS setting



## Public comment summary

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

DHS sought public comment from Aug. 5, 2019 to Sept. 4, 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 [Aug. 5, 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: 10/1/2019**

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.