

HCBS Final Rule Evidentiary Package

The Shores



Setting information

Setting name: Ecumen Duluth – The Shores	ID # 30492
Street address: 4000 London Road, Duluth, MN 55804	Phone: 218-625-8280
Setting website, if applicable: Ecumen-The Shores (http://www.ecumenlakeshore.org/assisted-living-duluth-mn)	Date of site visit: 9/25/2018

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	Name of Institution Lakeshore Inc., The Fountains, 4002 London Road, Duluth, MN 55804

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

General summary

The Shores is an elderly housing-with-services establishment registered with the Minnesota Department of Health. The Shores is owned by Ecumen. Ecumen Lakeshore, The Shores, holds a comprehensive home care provider license from the Minnesota Department of Health and is authorized to provide home care services.

The Shores is located on the Ecumen Lakeshore campus, a continuum-of-care campus that overlooks Lake Superior. [A campus map](#) is available in the Lakeshore brochure. ([http://www.ecumenlakeshore.org/filephotos/293/Quad Fold Campus Wide Brochure-Final for Print.pdf](http://www.ecumenlakeshore.org/filephotos/293/Quad%20Fold%20Campus%20Wide%20Brochure-Final%20for%20Print.pdf)). The Ecumen Lakeshore campus is within the city of Duluth, in northeast Minnesota near Lake Superior. Duluth's 2016 population, according to the census, was 86,293. The continuum-of-care services offered on campus include independent living apartments; customized living, including memory care; a short-stay and rehabilitation center; home care; and transportation services.

The Shores is a 60-unit apartment setting that provides customized living services and housing for people 62 and older. Forty of the apartments are customized living apartments for people who do not require 24-hour supervision; 20 apartments offer customized living with 24-hour supervision in a secure environment specifically designated for memory care.

On its attestation submitted in December 2017, The Shores reported it provides customized living services to 65 people in the setting. Two of the people who were receive customized living services are funded by 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 lives 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:

(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>Interconnectedness between the facility and the setting in question, including administrative or financial interconnectedness, does not exist or is minimal.</p> <p>The Shores has a designated housing director, nursing staff, direct care staff and wellness staff. The policies and procedures are specific to The Shores.</p> <p>The settings on the campus share Ecumen administration and financial operations.</p>
<input checked="" type="checkbox"/> Met <input type="checkbox"/> Unmet <input type="checkbox"/> Not applicable	<p>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; (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 HCB settings regulations.)</p> <p>Staff from The Fountains (Short-term health and rehabilitation setting) on the campus do not provide services or backup support for the staff at The Shores.</p>
<input checked="" type="checkbox"/> Met <input type="checkbox"/> Unmet <input type="checkbox"/> Not applicable	<p>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; (Describe the proximity to avenues of available public transportation or an explanation of how transportation is provided where public transportation is limited.)</p> <p>Ecumen owns it owns transportation service. This allows for transportation to be provided as desired, upon request for medical and other appointments. The city of Duluth also has public transportation options such as buses and taxis, but they are rarely used by the people who live at</p> 

	The Shores because of the availability and efficiency of the Ecumen transportation
<input checked="" type="checkbox"/> Met <input type="checkbox"/> Unmet <input type="checkbox"/> Not applicable	<p>The setting provides HCBS services in a space that is distinct from the space that institutional services are provided.</p>  <p>As shown in the aerial photo of the Ecumen Lakeshore campus, The Shores setting is circled in yellow. The Shores is connected to the Cascade Plaza that is the central building and offers services and amenities open to the public. The Fountains circled in red, is a short-term health and rehab facility. There is clear separation between The Shores and The Fountains buildings.</p>

Community engagement opportunities and experiences

<p>The city of Duluth is an active community and hosts several community events and experiences. Examples of ways The Shores provides for community integration opportunities for people includes:</p> <ul style="list-style-type: none"> • The Shores uses the University for Seniors at the University of Minnesota-Duluth for educational classes for residents. One person who receives customized living with 24-hour supervision was leaving with her companion during the visit to attend her class. She enjoys attending class at the university on a regular basis. • Taking pontoon rides on Lake Superior during the summer months • Attending the Grandma’s Marathon race whose route goes by the setting • Going to inline skating • Attending the Tall Ships celebration on Lake Superior • Taking rides around the community on the Pedicab <p>People are also active in the community on their own. Examples of activities people do on their own or with family include:</p> <ul style="list-style-type: none"> • Going out for pizza every Friday with family
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- Going shopping throughout Duluth
- Visiting with family at the family home or in the community
- One person recently went on a two-week vacation, traveling to different states
- Going to the movies
- Going to the family's cabin

the life enrichment coordinator visits with each person soon after he or she moves in to discuss the person's social, spiritual, educational and wellness interests. Monthly program calendars are posted on the bulletin boards and white boards as well as the dining room. Activity calendars are



also provided to all residents and to their families upon request.

People have the option to attend on-site activities as well. The campus has a large outdoor courtyard on the shore of Lake Superior. The Cascade Plaza located on campus has a gift shop and café and large chapel where services are provided a few times per week.



The setting has movie presentations. YMCA staff members come to the setting to provide a group fitness program open to people living at the setting and the community. A local animal companion program also comes to the setting with a German shepherd for people to interact with.



It was evident in observation and interviews with people, staff and the housing director that person-centered practices are at the forefront of service delivery by:

- Respecting and honoring the things each person thinks are important and encouraging informed choice and creativity
- Supporting activities are flexible and work around the person's preferred schedule (people are not following a "set schedule")
- Encouraging people to share ideas and make choices about setting activities based on their own personal preferences and interests
- Ensuring people have opportunities and supports they need to be fully included in their community, individually and in groups, as desired
- Assisting people with developing meaningful relationships with other members of the community

HCBS characteristics

<p>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.</p>	
<p>HCBS Rule requirement</p>	<p>Compliance status (Please select)</p>
<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 type="checkbox"/> Observation made during on-site visit</p> <p>The Shores submitted an HCBS rule-compliant Housing With Services Contract And Lease Agreement that is signed by the owner and the person.</p>	<p>Compliant</p>
<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 Shores' "Housing With Services Contract And Lease Agreement" includes the following: "Keys. The Community will ensure that each Apartment Unit has a lockable door. The Community will furnish all keys for the Apartment Unit rented at the time of occupancy. This will include one set per authorized Apartment Unit occupant."</p> <p>Observation of lock and deadbolt (shown in picture) on each apartment door.</p> 	<p>Compliant</p>
<p>The setting facilitates that a person, who shares a bedroom, is with a roommate of his or her 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>Compliant</p>

<p>The Shores reported on its attestation that bedrooms are not shared in the setting. Apartments are only shared if a person chooses to have a person move in with him or her, such as a spouse or friend.</p> <p>Apartments observed were occupied by single residents.</p>	
<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> <p><input checked="" type="checkbox"/> Observation made during on-site visit</p> <p>The Shores' "Housing With Services Contract And Lease Agreement" includes the following: "Decorations. Residents are welcomed and encouraged to furnish and decorate their Apartment Units."</p> <p>Apartments were observed to be decorated and furnished with the person's belongings and furniture.</p>	Compliant
<p>The setting provides people the freedom and support to control their daily schedules including access to food at any time.</p> <p><input checked="" type="checkbox"/> Compliant documentation submitted with attestation</p> <p><input checked="" type="checkbox"/> Observation made during on-site visit</p> <div style="display: flex; align-items: flex-start;"> <div style="flex: 1;">  <p><i>Public Cafe within the setting</i></p> </div> <div style="flex: 2; padding-left: 10px;"> <p>The Shores' "Housing With Services Contract And Lease Agreement" includes the following: "Access to Food. Resident has the right to choose when, where, and with whom Resident would like to eat, regardless of whether Resident chooses to participate in a meal plan at the Community. If Resident misses a meal, Resident does not have to wait until the next meal to eat. Resident is welcome to keep snacks or other food in the Apartment Unit."</p> </div> <div style="flex: 1;">  <p><i>Kitchen in apartment</i></p> </div> </div>	Compliant



Public restaurant in the setting

Several observations were made where people may choose when, where and what to eat, such as café, restaurant, main dining room or own apartment.

The setting allows people to have visitors at any time.

- Compliant documentation submitted with attestation
- Observation made during on-site visit

The Shores’ “Housing With Services Contract And Lease Agreement” includes the following: “The Community is pleased to welcome all guests. The Community does not have restricted visiting times, and Resident is free to choose where Resident will visit with guests.”

The Shores’ Resident Handbook” includes the following: “Guest suites and apartments are available for rent to family members and or guests of those who live at Ecumen Lakeshore.”

The setting has several different visiting areas throughout the buildings. People living in the setting have the ability to “buzz” in their visitors from their apartment.



Common sitting area



Keypad and buzzer at front entrance of the setting

Compliant

<p>The setting provides opportunities for people to seek employment and work in competitive integrated settings.</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 Shores Resident Handbook” includes the following: “Volunteerism is a tradition at Lakeshore. Residents are encouraged to find a way to become involved in the life of the community through volunteer service.”</p> <p>Staff reported examples of people from the setting working or volunteering include:</p> <ul style="list-style-type: none"> • One person owns his own business and continues to go to his place of work daily. His son manages the business. • One person volunteers at the library several times each week. • Some people enjoy volunteering their time baking goods for bake sales. • People volunteer to help with mailings from the campus. • Some people enjoy volunteering to work with college students who are studying for social work, physical or occupational therapy. 	<p>Compliant</p>
<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>Compliant</p>

	<p>“The Shores Resident Handbook” states, “In accordance with the Fair Housing Act, The Shores will make reasonable accommodations or modifications for individuals with disabilities (applicants or residents) unless these modifications would change the</p>	
<p>fundamental nature of the housing program or result in undue financial and administrative burden. ”</p> <p>“The Shores Resident Handbook” includes the following: “There are many common areas available within Ecumen Lakeshore for residents and their guests to use and enjoy.”</p> <p>Pictured in this section are an apartment shower and bathroom modified with grab bars and a hand-held shower head for accessibility.</p>	 <p><i>Accessible shower with hand-held shower head</i></p>	
<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>“The Shores Resident Handbook” includes the following: “Scheduled transportation is available for appointments. Please inquire with the Housing Director for a current brochure.”</p> <p>Administration reported that Ecumen also provides transportation services for medical and other trips for people who live at The Shores. Transportation is available as requested.</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 type="checkbox"/> Observation made during on-site visit</p>		Compliant

<p>The requirement is not applicable. The Shores reported on its attestation that “This setting does not provide money management duties.”</p>	
<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> <p>“The Shores Resident Handbook” includes the following: “All resident personal and financial documents will be kept in a secured area. Resident files will be accessible only to authorized individuals.” And, “Management will not enter your dwelling in your absence for non-emergency maintenance, housekeeping, or other routine services unless authorized.”</p> <p>The Shores’ “Housing With Services Contract And Lease Agreement” includes the following: “The Community respects Resident’s right to privacy and will knock or request permission before entering Resident’s Apartment Unit whenever possible.”</p> <p>Staff were observed knocking and waiting for entry to people’s apartments.</p>	<p>Compliant</p>
<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 Shores’ “Minnesota Home Care Bill of Rights” includes the following: “The right to be treated with courtesy and respect, and to have the client's property treated with respect.”</p> <p>Staff were observed interacting and communicating with people in the setting respectfully and professionally.</p>	<p>Compliant</p>
<p>The setting ensures people’s freedom from coercion and restraint.</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 Shores’ “Minnesota Home Care Bill of Rights” includes the following: “The right to be free from physical and verbal abuse, neglect, financial exploitation, and all forms of maltreatment covered under the Vulnerable Adults Act and the Maltreatment of Minors Act.”</p>	<p>Compliant</p>

<p>People were observed freely coming and going from the setting throughout the on-site visit.</p>	
<p>The setting optimizes individual initiative, autonomy, and independence in making life choices, including daily schedule and with whom to interact.</p> <p><input checked="" type="checkbox"/> Compliant documentation submitted with attestation</p> <p><input checked="" type="checkbox"/> Observation made during on-site visit</p> <div style="display: flex; justify-content: space-around;"> <div data-bbox="203 571 636 898">  <p><i>Activity room kitchen area</i></p> </div> <div data-bbox="672 575 1105 903">  <p><i>Activity room piano and tables and chairs</i></p> </div> </div> <p>The Shores' "Housing With Services Contract And Lease Agreement" includes the following:</p> <ul style="list-style-type: none"> • "Each Resident's service plan will be developed based on individual needs, preferences and requests and will offer flexibility that supports lifestyle choice related to health, wellness, social, spiritual and leisure activities." • "Resident is free to make arrangements for services with the providers of Resident's choice, regardless of whether or not the Community has an arrangement with the desired providers." • "If you require home health services that are not provided by our agency, we will assist you in making arrangements with outside providers. We can assist you with making medical appointments and transportation arrangements for medical appointments." <p>We observed that people choose their own schedules and what they do throughout the day. People are also made aware that they may choose any community provider of choice. Ecumen provides transportation to community providers and events, as requested.</p>	<p>Compliant</p>

Pictures of the HCBS setting



Hallway to The Shores from the lobby



Gift shop



Seating area on 2nd floor balcony



Fitness Center



Jigsaw puzzle area



Beauty Shop



Tables with jigsaw puzzles in progress



Outdoor gazebo and seating



Dining room

Public comment summary

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

DHS sought public comment for 30 days (Feb. 6-March 7, 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 [Feb. 6, 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: 4/1/2019

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.