

Missouri Home and Community-Based Services Statewide Transition Plan Heightened Scrutiny Settings For Public Comment

In March 2014, the Center for Medicaid and Medicare Services (CMS) published a final rule regarding changes to Home and Community-Based Services (HCBS). The rule defines a home and community based setting and person-centered planning requirements in Medicaid HCBS Waiver programs. The rule requires demonstration of how state's HCBS Waiver programs comply with the federal HCBS rule. The HCBS Statewide Transition Plan (STP) outlines the details of the steps to ensure compliance by March 2022, and outlines the public comment process which ensures input from self-advocates, families, advocacy organizations, and providers.

The structure of the STP includes the three sections: Section 1: Assessment, Section 2: Remediation Strategies, Section 3: Public Comment. Heightened Scrutiny Settings are described in Section 1: Assessment of the STP.

Under the final rule and State Medicaid Director (SMD) Letter #19-001 "Home and Community-Based Settings Regulation – Heightened Scrutiny" released by CMS on March 22, 2019, certain settings (often called "heightened scrutiny settings") are presumed to have the qualities of an institution, unless CMS determines through a heightened scrutiny review that the settings do not have the qualities of an institution and that the settings do have the qualities of home and community-based settings.

In light of updates to CMS guidance in the SMD letter, the State re-evaluated the identified potential heightened scrutiny settings and determined there are no settings in which individuals are receiving HCBS through a 1915(c) waiver program that warrant heightened scrutiny review. That is, the State determined that none of the settings in which its clients are receiving HCBS fall into any of the following categories:

- Settings that are located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment.
 - HCBS waiver services are not allowed to be provided in inpatient institutions
- Settings located on the grounds of, or immediately adjacent to, a public institution.
- Settings that have the effect of isolating individuals receiving Medicaid HCBS from the broader community of individuals not receiving Medicaid HCBS.
 - The State did not identify any settings designed or modeled to limit individuals' opportunities for interaction in and with the broader community, including with individuals not receiving Medicaid-funded HCBS.
 - The State did not identify any settings that were designed to restrict individual choice to receive services or to engage in activities outside of the setting.

- The State did not identify any settings physically located separate and apart from the broader community that did not facilitate individual opportunity to access and participate in the community, consistent with an individual's person-centered service plan.
 - DMH allows waiver services to be provided to DD waiver individuals residing in a Residential Care or Assisted Living Facility, but the waiver services may only be delivered in the community.

Individuals, family members, and stakeholders can submit, at any time, a setting for heightened scrutiny review. If the individual, family member, or stakeholder identifies a setting to have the qualities of an institution, he/she can complete the [Referral for Review of Setting Form](#) on the [Home and Community-Based Services Transition Plan web page on the MHD website](#) under the Other Relevant Documents Section.