



HCBS Settings Final Rule Heightened Scrutiny Submission (Round 2)

The Department is putting forward for CMS’s review its determinations relating to a second batch of settings subject to heightened scrutiny.

We published the following materials for public comment on April 25, 2023:

- [Informational Memo](#) (also circulated to stakeholders via Constant Contact)
- [Fact sheet](#)
- [Site-specific assessment and heightened scrutiny process](#) (as published in June 2021 in connection with the first batch of heightened scrutiny determinations)
- Notices in the [Colorado Register](#), tribal consultation document, and newspapers. The newspaper notices ran on April 26/27 and repeated after two weeks.
- [List of settings](#)
- [Seven summary sheets](#)

We also instructed both case management agencies (CMAs) and providers to reach out to individuals living or receiving services at affected settings (or if authorized, their guardians/other legally authorized representatives) to ensure that they were aware of the opportunities to comment.

We hosted a public town hall meeting on May 15, 2023 to take comments on our second batch of heightened scrutiny determinations. The meeting had about 42 participants (including some state agency staff). Several participants had questions about the heightened scrutiny process and/or the HCBS Settings Final Rule in general; few spoke to specific settings. We received no written comments via email or regular mail regarding our determinations.

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The Department has now reviewed and addressed all input from the town hall. For reference, the only setting that was specifically the subject of public comment was HS-056, Hope Center. All updated summary sheets are available on our [website](#) under the header “Heightened Scrutiny,” subheader “Documents for review by CMS - Second Submission.”

The list of seven settings being put forward today for CMS’s review is the same as set forth in the list published on April 25, 2023, linked above. There are settings in both the location-based category (factors i and ii) and the otherwise isolating category (factor iii). We did not



determine that any settings in category iii finished demonstrating compliance by July 1, 2021, such that they might be outside the scope of CMS's review.

We have uploaded to our [secure SharePoint site](#) for CMS's review folders containing the evidence supporting our determinations for each setting. This evidence includes the Provider Transition Plan (PTP) for each setting as well as the materials attached to the PTP—an assortment of policies and procedures, leases/residential agreements (for residential settings), various other documents, and in some cases, photographs and other materials.

We look forward to receiving CMS's feedback on these materials. We will take that feedback into account as described in the site-specific assessment and heightened scrutiny process document (linked above).