

Approaches to Heightened Scrutiny and Addressing Isolation

HCBS Conference

December 8, 2020

Presenters



Amanda Alvey

Senior Consultant
Public Consulting Group



Betty Pinion

Director, ID/DD Waiver
Bureau of Intellectual/Development
Disabilities
Mississippi Department of Mental Health



Joseph Billingsley

ISCD-Chief, Program Policy and Operations Branch
California Department of Health Care Services

Agenda

- Overview of Heightened Scrutiny and the Final Rule
- Review of the 2019 SMD Letter
- Settings assessments and heightened scrutiny identification
 - MS
 - CA
- Questions & Answers



Poll Instructions

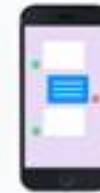
How to join

Web



- 1 Go to PollEv.com
- 2 Enter **JAYMICOHEN341**

Text





- 1 Text **JAYMICOHEN341** to **22333**

Has your state completed the identification process for heightened scrutiny settings?

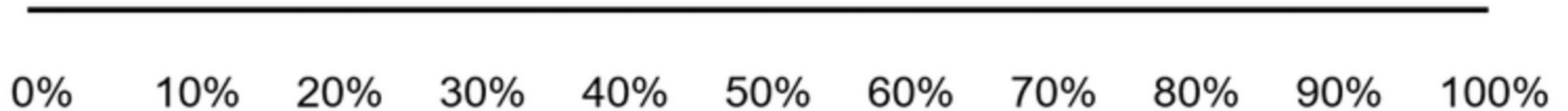
Yes **A**



No **B**

Not sure **C**



What percentage of settings did your state identify as heightened scrutiny?





**What are 1-2 words that come to mind when you think of
heightened scrutiny?**

The HCBS Settings Final Rule

Heightened Scrutiny Process and Settings Identification

HCBS Requirements

The Final Rule requires that individuals receiving services are supported to:



- Access their community to the extent they desire
- Access the benefits of community living
- Receive their supports and services in the most integrated setting

** The most integrated setting does not just mean in the community; rather, it means to be an integral part of their community based on their choices and desires*

HCBS Requirements

Compliance with the Final Rule:

- **IS NOT** based on physical or geographical location
- **IS NOT** based on a specific diagnosis or medical condition
- **DOES NOT** support blanket restrictions on an individual's support and experience that are not person-centered



Heightened Scrutiny

Settings may be determined to be Heightened Scrutiny for one of three reasons, or “prongs.”

Prong 1: The setting is located in a building that is also a publicly or privately operated facility, which provides inpatient institutional treatment.

Prong 2: The setting is located in a building located on the grounds of, or immediately adjacent to, a public institution.

Prong 3: The setting has the effect of isolating individuals receiving Medicaid HCBS services from the broader community of individuals not receiving Medicaid HCBS.



CMS Guidance on Heightened Scrutiny

- Process outlined as part of the HCBS Settings Final Rule from March 2014
- State Medicaid Director letter released March 22, 2019
 - FAQs address the process for heightened scrutiny and offer clarification on two other areas
- Rescinds some prior guidance identifying specific settings as “potentially isolating”

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S2-26-12
Baltimore, Maryland 21244-1850



SMD # 19-001

**Re: Home and Community-Based
Settings Regulation – Heightened
Scrutiny**

March 22, 2019

Dear State Medicaid Director:



CMS Extension

Overview of State Medicaid Director letter #20-003

CMS Extension

Key Takeaways

- Effective date of Final Rule implementation extended to **March 17, 2023**
- Extension is to allow settings time to complete **remediation** activities
- Updated timeframes for states regarding submission of full heightened scrutiny packets to CMS

Settings that are presumptively institutional (co-located)

- March 2021 –Bulleted list posted for public comment

Settings that have the effect of isolating

- July 2021 – Settings that have completed remediation and changes have been validated do not need full packets submitted to CMS
- October 2021 – Packets submitted to CMS for review



Overview of the Settings Assessment Process





Mississippi Department of Mental Health

Setting Type

Description

Supervised Living

Provided to individuals who reside in their own residences (either owned or leased by themselves or a provider) for the purposes of increasing and enhancing independent living in the community. Supported Living is for individuals who need less than 24-hour staff support per day. Supported Living services are provided in a homelike setting where people have access to the community at large to the same extent as people who do not have IDD

Supervised Residential Habilitation

Supervised community living means there is a staff person on site, 24 hours per day, seven days per week who can respond to calls for assistance in five minutes or less. The sites in which Supervised Living is available vary across the state. Generally no more than six individuals live together in a home. Transportation to and from day programs and community activities is provided, as well as support with shopping for food and personal items and assistance with individual finances.

Day Services – Adult

These services are designed to assist and support individuals in retaining and/or improving skills which afford them the greatest level of independence possible. Programs are required to provide individuals with numerous and varied opportunities to participate in activities in the community. Transportation is provided.



Setting Type**Description**

Pre-vocational

These services are designed to promote vocational skill development with the eventual outcome being employment in a workplace in the community, with or without support. Activities generally are not primarily directed at teaching job specific skills, but at broader skills which can be used in a variety of work settings (examples: increasing attention span, improving gross and fine motor skills, etc.). Services can be center based or community based. Transportation is provided.



Overview of Site Assessments

Completed **100%** onsite of residential and non-residential programs

- **262** settings total
 - **82** Non-residential
 - **180** Residential

43 settings identified for HS

16%



Qualities of Isolated Settings

Onsite Findings

- × Physical location
- × Group activities
- × Choices limited to staffing
- × Little to no community interaction
 - × Friends and visitors are from other provider homes in same area
- × Blanket restrictions
- × *Campus-like Settings

Remediation Strategies

- ✓ Separate Staffing in houses on same street
- ✓ Individuals stay in own home versus going next door
- ✓ TRAINING, TRAINING, TRAINING
 - ✓ Person-centered practices
- ✓ Evaluate community resources



California Department of Health Care Services (DHCS)

Setting Type	Description
Residential Care Facility for the Elderly (RCFE)	Housing arrangement chosen voluntarily by the resident, the resident's guardian, conservator or other responsible person; where 75 percent of the residents are sixty years of age or older and where varying levels of care and supervision are provided, as agreed to at time of admission or as determined necessary at subsequent times of reappraisal. Any younger residents must have needs compatible with other residents
Adult Residential Facility (ARF)	Facility that provides 24-hour-a-day nonmedical care and supervision
Congregate Living Health Facility (CLHF)	Residential setting with a non-institutional, homelike environment, having no more than eighteen beds with an option for a private unit. The CLHF provides continuous nursing and supportive services (CNSS) that includes the following array of services: medical supervision, 24-hour skilled nursing services and supportive care, pharmacy, dietary, social, recreational and services



Onsite Assessments

301 providers were assessed

- Setting type
 - 19 Adult Residential Facilities (ARFs)
 - 42 Congregate Living Health Facilities (CLHFs)
 - 240 Residential Care Facilities for the Elderly (RCFEs)
- Setting location
 - Most of the settings (246) were located in Southern California (Fresno, Kern, Los Angeles, Orange, Riverside, San Bernardino, San Diego, and Ventura counties)
 - 35 were in Northern California (Sacramento and San Joaquin counties)
 - 20 were in San Francisco Bay area (Alameda, Contra Costa, San Francisco, San Mateo, Santa Clara, and Sonoma counties)



Summary of Findings



Systemic Barriers to Compliance



- Lack of community integration / access
- Lack of true person-centered planning and practices
- Blanket restrictions due to dementia diagnoses
 - Visitors –
 - Sign in/out
 - Hours
 - No overnight visits
 - Access to food
 - Cleaning/laundry
 - Cooking and meal planning
- Institutional appearance
 - Large facilities
 - Medical staff and equipment
 - Locked gates/entries
 - Video surveillance



Heightened Scrutiny

Of the settings identified for heightened scrutiny, nearly all had institutional qualities and further isolate individuals from the broader community.

- ✗ Restricted access to the community based on diagnosis
- ✗ Locked/secured entries
- ✗ Alarmed doors, windows
- ✗ Lack of individualized schedules
- ✗ Restrictions on visitors
- ✗ Restrictions on access to food, meal choice



MENU OF THE WEEK

	SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
B	apple juice 8oz	orange juice (8oz)	prune juice 8oz	mango juice (8oz)	guava juice 8oz	apple juice 8oz	whilon juice 8oz
K	oatmeal 1 cup	cream of wheat (1 cup)	multo-meal (1 cup)	cold cereal (1 cup)	cream of rice (1 cup)	oatmeal 1 cup (8oz)	cream of rice (1 cup)
R	scrambled egg (2 eggs)	french toast (2 slices)	coffee cake (1 slice)	pancakes (2 pieces)	1 slice toast	eggs (1 cup)	scrambled egg (2 eggs)
A	waffle (1)	sausage links (2 2oz size)	fetta cheese (1oz)	toast 1 slice	2 bacon strips	margarine 1 tsp	toast 1 slice
K	margarine 1 tsp		margarine 1 tsp	margarine (1 tsp)			margarine 1 tsp
A			1 banana				
L	garden salad	diced tomato salad 1 cup	beet salad (1 cup)	2 medium stuffed	garden salad	carrot salad 1/2 cup	coleslaw 6oz
U	with italian dressing 1 cup	chicken	meatloaf/gravy (6 oz)	pepper	baked fish 8oz	roast turkey/ gravy 8oz	fried chicken (leg and thigh)
N	roast beef 6oz	parmesan 8oz	whipped potato (1/2 cup)	rice pilaf (1/2 cup)	whipped potato (6oz)	stuffing 6oz	collard greens (1/2 cup)
C	mashed potato (6oz)	steamed	steamed	seasoned	seasoned	seasoned	black eyed peas 1/2 cup
H	seasoned peas 1/2 cup	zucchini 1/2 cup	seasoned corn 1 slice bread	bread 1 slice	seasoned	seasoned	cornbread
N	bread 1 slice	chilled peas (4oz)	margarine 1 tsp	margarine 1 tsp	cherry cliff (4oz)	margarine 1 tsp (1 slice)	margarine 1 tsp (1 slice)
A	fruit medley (1 cup)	fruit cocktail (1 cup)	fruit cocktail (1 cup)	fruit cocktail (1 cup)	fruit cocktail (1 cup)	brownie 1 slice	peach cobbler (4oz)
D	cream of tomato soup (1 cup)	lentil soup (1 cup)	corn chowder (1 cup)	minestrone soup (1 cup)	barley soup (1 cup)	clam chowder (1 cup)	chicken soup (1 cup)
N	1 western bbg sandwich (1 cup)	1 fishburger sandwich (1 cup)	tatar sauce (1 cup)	cheese 10oz	corned beef 6oz	1 grilled cheese sandwich (1 cup)	stir-fry beef (8 oz)
K	mozzarella sandwich (1 cup)	french fries (8oz)	chips 6 oz	broccoli (1/2 cup)	seasoned	apple salad (4oz)	atoad rice (4oz)
R	garden salad (1 cup)	baked custard (4oz)	pineapple upside down cake 1 slice	season delight cake 1 slice (4 oz)	ice cream 4oz	1/2 pickle	chow mein 6oz
A	ice cream (4oz)					apple sauce	green tea
S	juice 8oz	juice 8oz	juice 8oz	juice 8oz	juice 8oz	juice 8oz	juice 8oz
BRACK	cookies (1)	cookies (1)	cookies (1)	cookies (1)	cookies (1)	cookies (1)	cookies (1)

BREAKFAST • 8:00 a.m.
LUNCH • 12:00 p.m. ALL MEALS INCLUDE A CHOICE OF AND/OR B.O.Z.
DINNER • 5:00 p.m. ALL MEALS INCLUDE A CHOICE OF AND/OR B.O.Z.
BRACK • ANYTIME * OF COFFEE, TEA OR MILK JUICE IS ALSO SERVED.

Site #1

Overview

- CHLF
- 6 beds – 4 filled, 3 waiver
- Some community activities (limited)
- Transportation is available
- Individual and group outings (unless restricted by physician)
- Some evidence of person-centered planning and practices

Institutional/ Isolating Qualities

- Video cameras
- Nursing station / medical carts
- IV poles, hospital beds
- Medical staff and services onsite (MD, RN)
- Valuables and personal items must remain with family
- Front door is locked and chimed
- Dietician plans all meals
- Month to month agreement for SNF/ICF
- Visitor sign in/out
- No overnight visits unless “actively passing”



Site #2

Overview

- RCFE
- 106 beds –
 - 87 occupied, 58 ALW, 9 hospice
- Provider owns 3 additional settings in the area
- 2 other settings in the area providing similar services

Institutional/ Isolating Qualities

- Secured memory care unit
- Video surveillance
- Large # of beds
- No community access for individuals in memory care unit
- Lack of person-centered plans
- Restrictions on visitors and movement throughout setting
- Limited individual input into activity calendar

Site #3

Overview

- RCFE
- 158 – Provider stated 130 is max capacity
 - 120 currently – 6 ALW, 5 hospice
 - 15 memory care – share bedrooms

Institutional/ Isolating Qualities

- Campus-like setting
- Individuals must request entry “after hours”
 - Sign in/out
- Large facility
- Use of PRN medications
- Access to money is restricted
- Charge for “tray service”
- Assigned seating
- Must ask staff for access to food in kitchen
- Visitor sign in/out, staff assistance for entry
- Restrictions on movement inside and outside the setting



Approaches to Addressing Isolating Qualities

Remediation Strategies

- Establish and support **community connections**
 - Virtual options
 - Services and supports
- Realign **staffing**
- Update and adopt **person-centered** policies
 - Privacy
 - Visitors
 - Medication management
 - Realign “House Rules”
- Support **self-advocacy**
 - Meal planning
 - Chores and laundry
 - Choices in activities
 - Planning meetings
- Invest in **training**
 - New hire and at least annually
 - Topics
 - Establish metrics to measure learning
- “There’s no place like **home**”



Panel Discussion



**How did the
assessment findings
differ from what you
anticipated?**



What has been the bigger barrier to gaining stakeholder understanding and buy-in?



**What do you see as
the biggest systemic
barrier for settings
that isolate?**



Describe the impact the pandemic has had on settings addressing qualities that were identified as isolating?



What changes have you made to state policies/practices to reduce institutional practices?

Contact Us

Amanda Alvey

aalvey@pcgus.com

(317) 829-6577





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Solutions that Matter