

HCBS Settings Rule: Stakeholder Update

On July 14, 2020 the Centers for Medicare and Medicaid Services (CMS) issued the Home and Community-Based Settings Regulation – Implementation Timeline Extension and Revised Frequently Asked Questions. You can access the full document here:

<https://www.medicaid.gov/Federal-Policy-Guidance/Downloads/smd20003.pdf>

CMS will allow states an additional year to come into compliance with the Home and Community Based Services (HCBS) Settings Rule. The new compliance date is March 17, 2023.

In light of impacts from COVID-19, CMS will allow states an additional year, through March 17, 2023 (previously 2022), to complete implementation of activities required to demonstrate compliance with the Home and Community-Based Services (HCBS) settings criteria. The following additional timelines have also been affected:

- If a state determines that a setting that isolates individuals from the broader community has implemented remediation strategies that brought the setting into compliance with the HCBS settings criteria by July 1, 2021 (previously 2020), then that setting will not need to be submitted to CMS for a heightened scrutiny review.
- States may submit to CMS isolating settings that have not completed necessary remediation for a heightened scrutiny review no later than October 31, 2021 (previously 2020).
- Information on settings located in the same building as a public or private institution or on the grounds of or adjacent to a public institution must be submitted for heightened scrutiny no later than March 21, 2021 (previously 2020).

How do the new timelines affect Utah's progress towards HCBS settings compliance?

- For settings that the State has identified as isolating individuals from the broader community:
 - Settings will continue to work with the State to submit an approved remediation plan if they do not already have one.
 - Settings must have an approved remediation plan to come into compliance by March 31, 2021.
 - If the State has validated the setting has implemented remediation strategies that brought the setting into compliance with the setting criteria by July 1, 2021, then that setting will not be submitted to CMS for a heightened scrutiny review.
 - If the setting is still implementing remediation strategies beyond July 1, 2021, then that setting will continue through the heightened scrutiny process.

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- Information on settings being submitted for heightened scrutiny will be available for public comment by August 1, 2021.
- The State will submit those required to go through heightened scrutiny to CMS no later than October 31, 2021.
- Remediation Plans must be fully implemented by June 30, 2022.
- For settings that are located in the same building as a public or private institution or on the grounds of or adjacent to a public institution:
 - Settings must have an approved remediation plan to come into compliance and submit their heightened scrutiny documentation to the State by September 20, 2020.
 - Information on settings being submitted for heightened scrutiny will be available for public comment by February 1, 2021.
 - Heightened scrutiny information will be submitted to CMS by March 21, 2021.
- For settings that require remediation to come into compliance (setting not determined as isolating individuals):
 - Settings will continue to work with the State to submit an approved remediation plan if they do not already have one.
 - Settings must have an approved remediation plan to come into compliance by March 31, 2021.
 - Remediation Plans must be fully implemented by June 30, 2022.

The State will continue to actively support and work with providers on their current remediation plans to make progress towards HCBS settings compliance.

For additional information on Utah's heightened scrutiny process:

<https://medicaid.utah.gov/Documents/pdfs/ltc/hcbstransition/Files/HeightenedScrutiny.pdf>

Find additional resources at <https://medicaid.utah.gov/ltc/hcbstransition/>

Submit any questions to HCBSSettings@utah.gov

