



4 Key Principles Essential for Compliance with the HCBS Final Rule:

Choices

Choice is the right, power, or opportunity to choose; option.

Rights

A person's right is that which is morally, legally, or ethically proper.

Opportunities

An opportunity is a good position, chance, or prospect, as for advancement or success; "a set of circumstances that makes it possible to do something".

Integration

Integration means to give or cause to give equal opportunity and consideration to.

Home and Community Based Services (HCBS) October Agenda Item

What is Heightened Scrutiny?

A term used in the Final Rule to describe a process for identifying and correcting issues or problems found during the assessment process.



What types of settings are identified in the HCBS regulations presumed to have the qualities of an institution to which the heightened scrutiny process applies?

The regulations describe three categories of residential or non-residential settings that are presumed to have the qualities of an institution:

- Settings that are located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment;
- Settings that are in a building located on the grounds of, or immediately adjacent to, a public institution; and
- Any other settings that have the effect of isolating individuals receiving Medicaid home and community-based services (HCBS) from the broader community of individuals not receiving Medicaid HCBS.

What are the characteristics of a setting that isolates HCBS beneficiaries from their broader community?

CMS intends to take the following factors into account in determining whether a setting may have the effect of isolating individuals receiving Medicaid HCBS from the broader community of individuals not receiving HCBS:

- Due to the design or model of service provision in the setting, individuals have limited, if any, opportunities for interaction in and with the broader community, including with individuals not receiving Medicaid-funded HCBS;
- The setting restricts beneficiary choice to receive services or to engage in activities outside of the setting; or
- The setting is physically located separate and apart from the broader community and does not facilitate beneficiary opportunity to access the broader community and participate in community services, consistent with a beneficiary's person-centered service plan.

To view the FAQs, visit [Medicaid.gov](https://www.medicaid.gov) at:

<https://www.medicaid.gov/federal-policy-guidance/downloads/smd19001.pdf>

Please discuss this item with your team, and assign a note taker to compile questions, concerns or thoughts about the information above. Please provide to [Lizette Villa](mailto:Lizette.Villa@elarc.org) at Lizette.Villa@elarc.org by 11/30/2020. Thank you.