



Heightened Scrutiny Settings and Key Findings

Pursuant to requirements of the Centers for Medicare and Medicaid Services (CMS) Home and Community Based Services (HCBS) Settings Rule, the Texas Health and Human Services Commission (HHSC) is submitting a list of certain Medicaid settings to CMS for heightened scrutiny review, as described in 42 Code of Federal Regulations (C.F.R.) §441.301(c)(5)(v) and in CMS' [March 2019 Updated Frequently Asked Questions on Heightened Scrutiny Provisions](#). HHSC is submitting these settings to demonstrate that they do not have qualities of an institution and that the settings do have the qualities of home and community-based settings.

HHSC is submitting assisted living facilities (ALFs) that participate in the Medicaid STAR+PLUS HCBS program to CMS for heightened scrutiny review. HHSC has assessed each ALF setting for compliance with the HCBS Settings Rule and identified remediation activities needed to achieve full compliance before the federal deadline of March 17, 2023. Please find information regarding heightened scrutiny requirements and HHSC's determination that ALFs must undergo heightened scrutiny [here](#).

This document provides a summary of key findings and remediation activities HHSC identified during the assessment process, and a list of settings HHSC is submitting to CMS.

The public can provide comments on the list of settings identified for heightened scrutiny until June 13, 2022. HHSC will consider public comments received and make updates to the list in response to comments, as appropriate.

Please find instructions for submitting public comment on page 7 of this document. The list of settings begins on page 8. Additional information about the HCBS Final Rule, the heightened scrutiny process, and HHSC's statewide transition plan is available on the HHSC website.

Federal Heightened Scrutiny Requirements

A primary purpose of the HCBS Settings Rule is to ensure people get Medicaid HCBS in settings that are integrated in the community. CMS presumes certain settings are not home and community-based because they have institutional or isolating qualities. However, the heightened scrutiny process allows states to demonstrate that settings can overcome this institutional presumption. These settings must go through a heightened scrutiny review by CMS. CMS presumes the following types of settings have institutional or isolating qualities:

- Prong 1 settings: Located in a hospital, nursing facility, intermediate care facility for individuals with an intellectual disability or related condition (ICF/IID) or institution for mental disease (IMD).
- Prong 2 settings: Located adjacent to a public hospital, nursing facility, ICF/IID or IMD.
- Prong 3 settings: Have the effect of isolating people from the broader community of people who do not receive HCBS.

ALF Settings in STAR+PLUS HCBS

To identify presumptively institutional and isolating settings, HHSC conducted an internal systemic policy assessment; external assessments of Medicaid HCBS providers, people receiving HCBS and their families, and service coordinators; and a geographic analysis of certain Medicaid HCBS settings. The assessment results indicate assisted living facilities (ALFs) participating in the STAR+PLUS HCBS program fall under the institutional presumption outlined by CMS.

To determine which ALF settings must be submitted for heightened scrutiny, HHSC relied on the results of its internal systemic policy assessment, as well as provider and participant survey data collected and analyzed by the Texas External Quality Review Organization (EQRO). HHSC also conducted a geographic analysis to support its determinations for the prongs under which each STAR+PLUS ALF will be submitted for heightened scrutiny.

The EQRO survey results indicate nearly all STAR+PLUS ALF settings have isolating qualities that require site-specific remediation. Additionally, both the EQRO survey results and HHSC's internal systemic policy assessment results indicate that policy barriers currently prevent all ALFs from fully complying with the HCBS Final Rule.

The results of the internal systemic policy assessment and external assessments indicate that all STAR+PLUS ALF settings can overcome the institutional or isolating presumption and comply with the HCBS Final Rule by March 17, 2023, through policy changes and site-specific remediation. Therefore, HHSC plans to submit all ALFs currently participating in the STAR+PLUS HCBS program for heightened scrutiny.

Considering all ALFs for heightened scrutiny allows HHSC and STAR+PLUS managed care organizations (MCOs), in collaboration with each ALF setting, to confirm the ALF's compliance status and ensuring any necessary remediation is completed prior to the deadline for compliance with the HCBS Final Rule.

Assessment and Evidence Packet Completion

HHSC worked closely with STAR+PLUS MCOs to assess each ALF setting for compliance with the HCBS Settings Rule. Compliance determinations and remediation activities have been documented in each ALF setting's evidence packet. HHSC requires all remediation activities identified in an ALF's evidence packet to be completed by Summer 2022.

Note: Any modifications to the conditions described in the HCBS Settings Rule must be based on an individualized assessed need and documented in the recipient's person-centered service plan, as required by 42 CFR §441.301(c)(4)(vi)(F). This includes modifications related to employment, lease agreements, door locks, curfews and visitation.

Key Findings

During the assessment and evidence packet completion process, STAR+PLUS MCOs and HHSC determined most ALFs require remediation in the following areas:

Employment

42 CFR §441.301(c)(4)(i) requires a Medicaid HCBS setting to be integrated in and support a Medicaid HCBS recipient's full access to the greater community, including opportunities to seek employment and work in competitive integrated settings. Many ALFs currently do not have processes in place to provide support for recipients interested in obtaining employment.

Remediation activities include:

- HHSC provided guidance to ALFs and MCOs on their roles and responsibilities for educating residents on supports available for obtaining and maintaining competitive employment, and for providing transportation or assisting the member to arrange transportation.
- Updates to ALF policies to clarify the resident's right to seek competitive employment and to outline the ALF's process for providing information to residents about employment opportunities, including referring Medicaid HCBS recipients to their MCO service coordinator for assessment and authorization of employment services.

Lease agreements

42 CFR §441.301(c)(4)(vi)(A) requires that a Medicaid HCBS recipient residing in a provider-owned or controlled residential setting has the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity. Nearly all ALFs participating in STAR+PLUS HCBS execute a lease or residential agreement with residents that specifies the timeframe for notification of the individual's transfer or discharge from the setting. However, many agreements do not ensure protections from eviction comparable to those under state landlord/tenant law.

Remediation activities include:

- ALFs to execute a written, legally enforceable agreement with all Medicaid HCBS recipients that provides the same protections from eviction that tenants have under the landlord/tenant laws of Texas.
- ALFs to revise existing lease or residential agreements to include specific language that ensures the necessary protections against eviction.

Door locks

42 CFR §441.301(c)(4)(vi)(B)(1) requires that a Medicaid HCBS recipient residing in a provider-owned or controlled residential setting has privacy in their living or sleeping unit, and that units have entrance doors lockable by the individual, with only appropriate staff having keys to doors. Most ALFs participating in STAR+PLUS HCBS do not currently have locks on recipients' bedroom or living unit doors.

Remediation activities include:

- HHSC provided guidance to ALFs and MCOs on requirements to ensure a Medicaid recipient has a lock on their bedroom or living unit door and guidance regarding the type of lock that must be used.
- ALFs to install locks on bedroom or living unit doors for all Medicaid recipients
- Updating ALF policies to clarify a recipient's right to have a lock on their bedroom or living unit door and to outline the process for identifying and documenting any necessary restrictions in the recipient's person-centered service plan.

Curfews

42 CFR §441.301(c)(4)(vi)(C) requires that a Medicaid recipient residing in a provider-owned or controlled residential setting has the freedom and support to control their own daily schedules and activities. Many ALFs participating in STAR+PLUS HCBS enforce a curfew, which may limit a recipient's control of their daily schedule.

Remediation activities include:

- HHSC provided guidance to ALFs and MCOs on the requirement to ensure a recipient has control over their daily schedule activities, and prohibition against establishing a curfew for recipients.
- Updating ALF policies to remove any curfew requirements and, if applicable, to request that residents inform ALF staff of their comings and goings to assist the ALF in planning daily operations.

Visitation

42 CFR §441.301(c)(4)(vi)(D) requires that a Medicaid HCBS recipient residing in a provider-owned or controlled residential setting is able to have visitors of their choosing at any time. Most ALFs participating in STAR+PLUS HCBS impose some restrictions on visiting hours. Certain restrictions have been imposed in response to the COVID-19 pandemic to ensure social distancing.

Remediation activities include:

- HHSC provided guidance to ALFs and MCOs on the requirement to ensure a recipient can receive visitors at any time, except if visitation restrictions are necessary due to COVID-19 as required by Texas Administrative Code Title 26, Part 1, Chapter 553, Subchapter K, Rule [§553.2003](#).
- Updating ALF policies to remove any limitations on visitation and clarify visitors will be allowed at any time. ALF policies may specify that visitors may be prohibited and/or restricted if they pose a risk to the health and safety of the recipient or other residents of the facility.

Ongoing compliance after March 2023

STAR+PLUS managed care contracts currently include requirements for MCOs to ensure their contracted providers comply with requirements at 42 CFR §441.301(c)(4). HHSC is amending contracts to provide additional specificity regarding the services subject to the HCBS Settings Rule. This includes requiring MCOs to ensure compliance with the HCBS Settings rule as a condition of credentialing or contracting with an ALF provider. HHSC anticipates that these contract amendments will become effective in September 2022.

Instructions for submitting public comment

HHSC invites members of the public, including people receiving services and their families, providers, and other stakeholders to submit comments on the proposed heightened scrutiny list below.

HHSC will review and consider public comments received on the list before submitting it to CMS. HHSC will amend the list in response to comments, as appropriate.

Written comments, requests to review comments or both may be sent by U.S. mail, overnight mail, special delivery mail, hand delivery, fax, or email. All comments must be received by HHSC by 11:59pm on June 13, 2022.

Email

Medicaid_HCBS_Rule@hhsc.state.tx.us

U.S. Mail

Texas Health and Human Services Commission
Attention: Rachel Neely, Program Policy
John H. Winters Complex
701 W 51st Street
Mail Code H-600
Austin, TX 78751

Overnight mail, special delivery mail, or hand delivery

Texas Health and Human Services Commission
Attention: Rachel Neely, Program Policy
John H. Winters Complex
701 W 51st Street
Mail Code H-600
Austin, TX 78751

Phone number for package delivery: 512-438-4297

Fax

Attention: Rachel Neely, Senior Policy Advisor at 512-438-5835

List of ALF Settings

The list below represents the final list of ALF settings HHSC will submit to CMS. HHSC [posted](#) its initial list of ALF settings for public comment on September 24, 2021 and has since revised the list to remove certain settings that no longer participate in the STAR+PLUS HCBS program.

Note: An asterisk (*) indicates that the setting has multiple locations in the same county.

Prong 1 Settings

No.	Setting Name	County
1.	Ridgecrest Retirement and Healthcare Community	McLennan
2.	Simpson Place	Dallas
3.	The Residences at Bridgeport Medical Lodge	Wise
4.	The Rosewood Retirement Community	Bell
5.	The Village at Heritage Oaks	Navarro
6.	Woodlands Nursing Operations	Tarrant

Prong 2 Settings

No.	Setting Name	County
1.	Brookdale Champion Oaks	Harris
2.	Brookdale North Austin	Travis
3.	Cottage Village	Terry
4.	East Texas ALF Reunion Inn, LLC	Smith
5.	Elmcroft of Lake Jackson	Brazoria
6.	El Camino House	San Augustine
7.	Enchanted Pines	Houston
8.	Brookdale Collin Oaks	Collin
9.	Grandview of Westover Hills, LLC	Bexar
10.	Greenbriar Mansion	Tarrant
11.	Healthcor Integration, LLC	Tarrant

12.	Lakewest Assisted Living	Dallas
13.	Legacy Assisted Living	Hartley
14.	Madisonville Assisted Living	Madison
15.	Mason's Personal Care Homes and ALF	Dallas
16.	Meadow Creek Senior Living	Dallas
17.	Mt Pleasant Assisted Living	Titus
18.	Paris Chalet Senior Living	Lamar
19.	Vintage Health Care Center	Denton
20.	Wesley Partners LTD	Wood
21.	Wesley Partners LTD	Cass

Prong 3 Settings

No.	Setting Name	County
1.	A and S Community Development	Harris
2.	A and S Community Development II	Harris
3.	Agape Heritage Home	Fort Bend
4.	Agape House	Bexar
5.	Agape Place II	Dallas
6.	Albert Assisted Living Facility LLP	Dallas
7.	All American Dream Assisted Living Facility LLC	Coryell
8.	All Gods People Assisted Living Home	Harris
9.	Amazing Peace Home Care LLC	Bexar
10.	Angel Hands	Dallas
11.	Angel of Love Assisted Living	Harris
12.	Angel of Love Personal Care Home	Harris
13.	Arabella of Kilgore	Gregg
14.	Austin Senior Care	Travis
15.	Autumn Wind Assisted Living	Wood
16.	Autumn Wind Assisted Living	Wood
17.	Autumn Wind New Boston	Bowie

18.	Bed of Roses Assisted Living LLC	Harris
19.	Bethesda Gardens	Tarrant
20.	Blessings of Love Corporation	Dallas
21.	Bluebonnet Elite Assisted Living	Morris
22.	Brenda's Residential Assisted Living	Medina
23.	Brighter Days Assisted Living	Liberty
24.	Brightway Personal Care Home	Harris
25.	Brixton Village for the Elderly Inc	Dallas
26.	Brookdale Corsicana	Navarro
27.	Brookdale Denton North	Denton
28.	Brookdale Denton South	Denton
29.	Brookdale Dowlen Oaks	Jefferson
30.	Brookdale Ennis	Ellis
31.	Brookdale Lake Brazos	McLennan
32.	Brookdale Lake Highlands	Dallas
33.	Brookdale Lake Shore	McLennan
34.	Brookdale Lewisville	Denton
35.	Brookdale Longview	Gregg
36.	Brookdale Mansfield	Tarrant
37.	Brookdale Medical Center Whitby	Bexar
38.	Brookdale Memorial Oaks	Harris
39.	Brookdale Midland	Midland
40.	Brookdale Midwestern	Wichita
41.	Brookdale N Fredericksburg Rd	Bexar
42.	Brookdale Palestine	Anderson
43.	Brookdale Remington Park	Lubbock
44.	Brookdale San Marcos South	Hays
45.	Brookdale Sherwood	Ector
46.	Brookdale Tanglewood Oaks	Tarrant
47.	Brookdale Texarkana	Bowie
48.	Brookdale Tyler East	Smith
49.	Brookdale Weatherford	Parker

50.	Brookdale Western Hills	Bell
51.	Cambridge Court Assisted Living and Memory Care	Dallas
52.	Carriage House Assisted Living	Tarrant
53.	Casce House	Harrison
54.	Cedar Crest of Irving LLC	Dallas
55.	Cedar Senior Living	Dallas
56.	Chapa Residential Care Home LLC	Medina
57.	Circle of Helping Hands LLC*	Tarrant
58.	Coles Residential Home	Dallas
59.	Columbus Oaks Healthcare Community	Colorado
60.	Covenant Place of Abilene (Morada Abilene)	Taylor
61.	Covenant Place of Burleson (Morada Burleson)	Tarrant
62.	Cottage Village	Childress
63.	Country Home Estates	Hunt
64.	Country View Care Center	Frio
65.	Crestwood Assisted Living	Van Zandt
66.	Crossroads Assisted Living	Hidalgo
67.	Cruz Personal Care Home LLC	Medina
68.	Cypress Place Assisted Living	Marion
69.	D.E.S.I.R.E to Live	Harris
70.	Dansby House Inc	Brazos
71.	Deer Creek Senior Living	Dallas
72.	Destiny Rose Residential Care Facility	Dallas
73.	Donna Assisted Living Inc	Hidalgo
74.	Dove Community ALF	Harris
75.	Eagle Flats Village	Wilbarger
76.	East Texas ALF Waterton Inn LLC	Smith
77.	Efe Assisted Living Center Inc	Harris
78.	El Shadai Care Home	Dallas
79.	Elmcroft of Wharton	Wharton
80.	Elmcroft of Windcrest	Bexar
81.	Faith Assisted Living LLC	Dallas

82.	Fowler Christian Apartments	Dallas
83.	Fredisolo Anointed Homes	Dallas
84.	Freemans Assisted Living LLC	Dallas
85.	Golden Age Senior Care of Cambria	El Paso
86.	Golden Splendor Inc	Fort Bend
87.	Governors Ridge	Wise
88.	Griffins Homecare Haven	Dallas
89.	Halls Personal Care	Harris
90.	Heavenly Manor Assisted Living	Harris
91.	Helen's Care Inc	Dallas
92.	Helping Hands Care Inc	Dallas
93.	Heritage House on the Brazos	Fisher
94.	Heritage Square	Tarrant
95.	Highland Assisted Living LLC	Taylor
96.	Hill Country	Hamilton
97.	Hill Country Outreach Inc	Kerr
98.	Home To You	Grayson
99.	Hudson House Claude Inc	Armstrong
100.	IHCS Residential	Bexar
101.	Individual Care of Texas	Hunt
102.	Jones House of Peace	Harris
103.	Joyful Homes IV	Harris
104.	Lakewood Assisted Living LLC	Kaufman
105.	Linda's Alternative Care	Tarrant
106.	Los Abuelos Assisted Living	El Paso
107.	Love & Joy Personal Care Home	Harris
108.	Loving Care Assisted Living	Harris
109.	Marlena's House	Harris
110.	Meadow View Assisted Living	Tarrant
111.	Mendoza Esdras	Bexar
112.	Morning Starr New Beginnings*	Dallas
113.	Mount Vernon House	Franklin

114.	Mountain Villa at Kerrville	Kerr
115.	MSHC Colonial Lodge of Texarkana LLC	Bowie
116.	MSHC Reunion Inn of Marshall LLC	Harrison
117.	MSHC The Oaks Assisted Living LLC	Bowie
118.	MSHC Whispering Pines of Texarkana LLC	Bowie
119.	New Life Assisted Living*	Hidalgo
120.	New Life Outreach Boarding Homes	Gregg
121.	Oakwood Place	Henderson
122.	Pam's Home Care	Bexar
123.	Paradise LTC Living I	Harris
124.	Paradise LTC Living II	Harris
125.	Passionate Living Inc	Dallas
126.	Pecan Grove	Walker
127.	Precious Group Home Care LLC	Williamson
128.	Premier Country Haven Assisted Living Inc	Dallas
129.	Provident Memory Care Center	Polk
130.	R & L Garza Residential Care	Medina
131.	Ramirez Personal Care Home I	Medina
132.	Ramirez Personal Care Home II	Medina
133.	Reagan Manor	Medina
134.	Redstone Park Retirement and Assisted Living	Brown
135.	Riojas Assisted Living Home	Bexar
136.	Rosehaven Retirement Inn	Kaufman
137.	Rosehaven Retirement Residences	Kaufman
138.	Rosemont Personal Care	Harris
139.	Rosewood Assisted Living Center Inc	Newtown
140.	Royal Personal Care	Harris
141.	Sandhills Village Assisted Living	Lamb
142.	Senior Solace LLC Ivy House Assisted Living	Lubbock
143.	Senior Solace Manna Acres Assisted Living	Lubbock
144.	Sentinel Gardens	Gregg
145.	Serendipity Suites	Lubbock

146.	Silver Creek Assisted Living	Tarrant
147.	Silver Lake Casa Del Sol	Bexar
148.	Sisters Loving Arms	Lubbock
149.	Southern Wind Manor	Camp
150.	Sparrow Assisted Living	Harris
151.	Sparrow Assisted Living II, Inc	Harris
152.	Spears House of Care Inc	Dallas
153.	Stella Road Assisted Living	Dallas
154.	Sterling Adult Day Care	Medina
155.	Stonecreek Assisted Living & Retirement Center	San Augustine
156.	Sunridge At Cielo Vista	El Paso
157.	Susan Home Care Inc	Bexar
158.	Talco House Assisted Living	Dallas
159.	Tandy Village	Tarrant
160.	Texas Residential and Vocational Services	Travis
161.	The Avenues of Fort Bend Assisted Living and Memory Care	Fort Bend
162.	The Cottage Healthcare Services	Harris
163.	The Dan Group	Harris
164.	The Estates at Grand Prairie Inc	Dallas
165.	The Gardens at Hawkins*	Wood
166.	The Gardens at Livingston	Polk
167.	The Good Life Assisted Living	Hidalgo
168.	The Good Place Assisted Living	Tarrant
169.	The Hummingbird Center Inc	Harris
170.	The Lodge at Mt Pleasant	Titus
171.	The Madera Corporation	Upshur
172.	The Magnolia	Bowie
173.	The Orchard	Tyler
174.	The Pine Tree of Pasadena	Harris
175.	The Seasons	Ochiltree
176.	The Villages of Dallas	Dallas

177.	The Waterford at Corpus Christi	Nueces
178.	Three Oaks Assisted Living	Erath
179.	Trinity Faiths Place II	Dallas
180.	Trinity Faiths Place Inc	Dallas
181.	Trinity Residential Care	Dallas
182.	Veranda House Assisted Living Katy	Harris
183.	Villa Asuncion Independent and Assisted Living Center	Collin
184.	Villa Quilt of Corpus Northwest	Nueces
185.	Villa Residential Care of Wolfforth	Lubbock
186.	Villas Del Sol Assisted Living	El Paso
187.	Vincent Victoria Village	Tarrant
188.	Wesley House	Hill
189.	Wesley House	Upshur
190.	Wesley House	Smith
191.	Wesley Partners Ltd	Cass