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HCBS Settings: Heightened Scrutiny Update

Sept. 2021

Overview

- As part of the federal HCBS settings regulations, CMS requires states to submit settings for heightened scrutiny (HS) review.
- HHSC has identified STAR+PLUS assisted living facilities (ALFs) as settings that need to undergo heightened scrutiny.
- HHSC will rely heavily on MCOs for assistance in completing heightened scrutiny evidence packets, as well as identifying and overseeing any necessary remediation.



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HCBS Settings Regulations

- In 2014, CMS issued regulations governing the settings where Medicaid home and community-based services (HCBS) are provided.
- The purpose of the regulations is to ensure people get Medicaid HCBS in settings that are integrated in the community.
- CMS requires states to submit evidentiary packages for settings that CMS presumes are not home and community-based because they have institutional or isolating qualities.
 - These settings must go through heightened scrutiny.



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Heightened Scrutiny

- CMS presumes certain settings are institutional. These settings must be submitted to CMS for heightened scrutiny.
- The heightened scrutiny process allows states to demonstrate that settings can overcome the institutional presumption.
- CMS presumes the following types of settings have institutional or isolating qualities:
 - **Prong 1:** Located in an institution
 - **Prong 2:** Located adjacent to an institution
 - **Prong 3:** Have the effect of isolating people from the broader community.



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Assisted Living Facilities

- **All STAR+PLUS ALFs will be submitted to CMS for heightened scrutiny.**
 - HHSC is reaching out to the Texas Assisted Living Association to provide info about the upcoming heightened scrutiny process.
- ALFs located in or adjacent to an institution fall into Prongs 1 and 2.
 - All others will be considered in Prong 3.
- HHSC plans to re-assess and revise policies for ALFs to support the settings regulation requirements.



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Upcoming Deadlines

- **Oct. 31, 2021** is the deadline to submit to CMS a list of settings to undergo heightened scrutiny.
 - The list must include a breakout by prong and summary of rationale for submission.
 - HHSC is currently finalizing this list.
- Before submission to CMS, the list of settings must be posted for a 30-day public comment period.
 - HHSC anticipates that the list of ALFs will post for public comment by **Sept. 24, 2021**.



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Upcoming Deadlines (cont.)

- After the list is submitted, CMS will select a sample to review.
 - HHSC must submit evidence packets for the selected settings **within 30 days** of CMS' request.



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Evidence Packets

- HHSC will rely heavily on STAR+PLUS MCOs to complete evidence packets.
 - HHSC will complete some sections of the evidence packets.
- Starting in the next two weeks, HHSC staff will set up a series of regular meetings with MCO representative for more in-depth discussion on the evidence packet completion process.



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Thank you
