

MICHIGAN DEPARTMENT OF HEALTH AND HUMAN SERVICES
Behavioral and Physical Health and Aging Services Administration
Home and Community Based Setting (HCBS) Monitoring Requirements
Technical Advisory

Effective March 17, 2023, all settings that provide services to Medicaid beneficiaries must be in full compliance with the HCBS Final Rule to be eligible for Medicaid funding.

PURPOSE:

- I. This document outlines the HCBS compliance requirements the contractor must complete in order to ensure compliance with the implementation of the HCBS rule.

- II. In order to maintain compliance with the HCBS rule implemented on March 17, 2023, the Contractor must complete the following as specified by MDHHS:
 - A. HCBS Annual Physical Setting Assessment: this assessment will ensure the setting providing the service to waiver participants is in compliance with the HCBS standards that relate to the physical structure of the setting including but not limited to access to all public areas of the setting.
 - B. HCBS Comprehensive Assessment: this assessment will be completed every three years and will focus on the individual's experience of the setting including freedom of movement and satisfaction with setting.
 - C. If, through the comprehensive assessment process, the Contractor identifies a setting that has the qualities of an institution (operationally interrelated with a treatment facility or that are located on the grounds of an institution) such as characteristics that isolate HCBS beneficiaries (do not encourage and/or facilitate interaction with the greater community in the manner and to the extent the person desires. Settings that bring services and supports into the home rather than assisting participants in accessing their services in the greater community may be isolating), which the setting is not able to overcome, the Contractor is obligated to identify them as a Heightened Scrutiny setting. Those settings determined to be Heightened Scrutiny are not eligible for Medicaid HCBS funding.

- III. The Contractor will develop a process to ensure settings are assessed for compliance to the rule utilizing the tools provided and on a frequency, identified by the department.
 - A. The Contractor shall submit the required assessment schedule to ensure that all HCBS settings and waiver participants are assessed as specified by MDHHS.
 - B. The Contractor will provide the department with its proposal to address those settings that do not comply with the required HCBS assessments process including timelines.
 - C. The Contractor will report its progress in conducting assessments and remediating and validating assessment responses to the department as consistent with the process to be outlined by the department.
 - D. The Contractor will provide updated reports to the department specifying assessment activities taken and required remediation or validation activities as identified by the department.

- IV. The Contractor must ensure that all new providers of HCBS services complete the HCBS New Provider Assessment. The Contractor may provide provisional approval to the new provider if the setting does not qualify for heightened scrutiny (HS).
- A. The Contractor must ensure that providers and beneficiaries receive the MDHHS comprehensive HCBS assessment within 90 days of the beneficiaries' IPOS.
 - 1. A new provider is defined as:
 - a. A setting/provider that does not currently contract with the CMHSP/PIHP.
 - b. An existing contract provider who begins to offer a new service to the CMHSP/PIHP.
 - c. An existing contracted provider who changes the physical location of the setting where services are provided.
 - d. A new licensee for the setting even when the services and /or physical location remain the same.
 - B. The Contractor may provide provisional approval to the new provider if the setting does not qualify for heightened scrutiny.
 - C. The Contractor will ensure a comprehensive HCBS assessment is completed during the first assessment cycle occurring 90 days post provisional approval.
 - D. The Contractor must complete a provisional application consultation with MDHHS for any setting that has been found to require HS during the most recent assessment cycle following the established provisional approval consultation process in place.
 - E. Elements of the Provisional Approval:
 - 1. This provisional review will include an onsite assessment of the physical structure of the setting. The Contractor will identify any restrictions on waiver participants freedom of movement (such as locked doors or gates).
 - 2. Settings with physical restrictions will be reviewed in consultation with MDHHS before waiver participants begin to receive services in the setting. Failure to request this consultation will result in denial of Medicaid HCBS funding until a consultation is completed that identifies the settings as the least restrictive option for the person.

The Contractor shall ensure that changes in an individual's status (open or closed) as well as the current provider of services and services received are current in the Waiver Support Application (WSA). The Contractor shall ensure that demographic information, including the address of the waiver participant are accurate.

- V. The Contractor must ensure that all HCBS Final Rule requirements are met, as described in the Michigan Medicaid Provider Manual.
- A. The Contractor shall conduct annual physical assessment of each setting as identified to ensure that the setting remains home and community based. This will include assessment of the physical structure of the setting, and freedom of movement within the setting and the greater community. The contractor shall ensure that any identified restrictions on the persons freedom are implemented consistent with the modification requirements of the HCBS rule.
 - 1. The Contractor will ensure completion of the annual physical assessment of each setting to ensure ongoing compliance with the HCBS rule using the tool provided by MDHHS.

2. The Contractor will provide evidence of annual physical assessments upon request.
3. The Contractor will develop and implement remediation plans for any setting that is deficient in the annual physical assessment.
4. The Contractor will ensure completion of the comprehensive assessment of each setting every three years.
5. The Contractor will assess each waiver participants satisfaction with services and provider of services annually and ensure satisfaction assessment is documented in the record.
6. The Contractor will review any restrictions placed upon the individual to ensure that they are consistent with the HCBS modification requirements and Behavior Treatment Plan Review Committee Technical Requirements as outlined in the Michigan Medicaid Provider Manual.