



# Department of Human Services

## Public Comment Notice

The South Dakota Department of Human Services (DHS) is releasing a summary of the heightened scrutiny process and list of heightened scrutiny settings for public comment for 30 days from October 11, 2022 through November 10, 2022.

Following the public comment period, the list of settings and a summary of public comments received will be submitted to the Center for Medicare and Medicaid Services (CMS) for review and approval. According to the Home and Community Based Services (HCBS) Settings Final Rule, the settings on the list are presumed institutional by CMS due to the location of the setting. The Department of Human Services has collected evidence that demonstrates these settings have overcome the presumption of having institutional qualities.

### WHAT IS THE HCBS SETTINGS FINAL RULE?

The goal of the HCBS Settings Rule is to ensure that individuals on Medicaid who are residing in HCBS settings have the opportunity to engage with the community in which they live. Largely due to physical location, CMS presumes some settings to be institutional or to have the effect of isolating individuals. The following categories of settings are presumed by CMS to be institutional or isolating and are subject to a heightened scrutiny review by CMS:

- Category 1: Settings that are located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment.
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- Category 2: Settings that are in a building located on the grounds of, or immediately adjacent to, a public institution.
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- Category 3: Any other settings that have the effect of isolating individuals receiving Medicaid home and community-based services from the broader community of individuals not receiving Medicaid HCBS.

### WHERE CAN I REVIEW A LIST OF HEIGHTENED SCRUTINY SETTINGS?

A summary of the heightened scrutiny process and list of heightened scrutiny settings can be viewed online at <http://dhs.sd.gov/ltss/titlexix.aspx>. Printed copies may be requested by contacting the Division of Long Term Services & Supports at 605-773-3656.

### HOW DO I MAKE A COMMENT?

#### 1) E-MAIL:

[hcbs@state.sd.us](mailto:hcbs@state.sd.us)

#### 2) MAIL:

Department of Human Services  
Division of Long Term Services and Supports  
Attention: Caitlin Clarey  
2908 W. 11th St.  
Sioux Falls, SD 57104

#### 3) PHONE:

LTSS: (605) 773-3656

#### 4) CONFERENCE CALL:

- Tuesday, October 18th at 2:00 PM (CST)
- Conference Call #: 1(605)367-7263
- Code #: 215486169#