



## Public Notice for HCBS Final Rules – Heightened Scrutiny Posted and Published in Newspapers on December 9, 2023

at <https://dphhs.mt.gov/SLTC> and <https://dphhs.mt.gov/hcbs>

Montana's Department of Public Health and Human Services, in accordance with 42 CFR 441.301, hereby provides a 30-day public notice and comment period for its submission of one Home and Community-Based Services (HCBS) waiver setting requiring Heightened Scrutiny (HS) on or before January 15, 2024.

The Centers for Medicare and Medicaid Services (CMS) adopted new federal regulations which address home and community-based setting requirements for Medicaid HCBS waivers, known as the HCBS Final Rules. As part of the HCBS Final Rules, CMS defined settings presumed not to be home and community-based and will need to undergo HS. These settings include: 1) settings that are located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment, 2) settings that are in a building located on the grounds of, or immediately adjacent to, a public institution, 3) any other settings that have the effect of isolating individuals receiving Medicaid HCBS from the broader community of individuals receiving Medicaid HCBS.

For settings presumed not to be home and community-based, states must present evidence of their home and community-based characteristics to CMS to determine if the setting has the qualities of a home and community-based setting and does not have the qualities of an institution, and therefore, can begin providing waiver services to individuals receiving Medicaid HCBS. Montana intends to submit one setting in its second HS submission to CMS; and public comment on each setting is an important part of the home and community-based evidence package.

A summary of the HS-4, a description of the setting's home and community-based characteristics, and the reason the setting requires HS can be found at <https://dphhs.mt.gov/SLTC> and <https://dphhs.mt.gov/hcbs>.

We invite your comments and questions emailed or postmarked **through January 8, 2024**. You may direct comments or request a hard copy from Catherine Edmisten at [cedmisten@mt.gov](mailto:cedmisten@mt.gov) or mail to Department of Public Health and Human Services, SLTC-Community Services Bureau, Attn: Catherine Edmisten, Big Sky Waiver Section Supervisor, 1100 North Last Chance Gulch, Helena, MT 59601.