



Date: December 8, 2023

To: Montana Health Coalition Members, Ad Hoc Members, and Interested Parties

From: Mike Randol, Medicaid and Health Services Executive Director/Medicaid State Director

Subject: Montana Home and Community Based Services Heightened Scrutiny Package Submittal

This memo is to inform you of Montana Department of Public Health and Human Services' (DPHHS) intent to submit a package for one Home and Community Based Services (HCBS) waiver setting requiring Heightened Scrutiny (HS) to the Centers for Medicare and Medicaid Services (CMS) on or before January 15, 2024. In accordance with 42 Code of Federal Regulations 441.301, the state hereby provides a 30-day public notice and comment period.

#### Background

CMS adopted new federal regulations in 2014 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.