

GREG GIANFORTE  
GOVERNOR



DEPARTMENT OF  
**PUBLIC HEALTH &  
HUMAN SERVICES**

CHARLIE BRERETON  
DIRECTOR

December 8, 2023

Name  
Address

**Re: Montana Home and Community Based Services Heightened Scrutiny Package Submittal**

Dear Title, Name:

The Montana Department of Public Health and Human Services (DPHHS) is pleased to invite comment from all Tribal Governments, Urban Indian Health Organizations, and Indian Health Service (IHS) regarding its 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. Under our agreement, DPHHS provides you notice of all Medicaid State Plan and Waiver changes. To aid your review, we have indicated whether there will be a direct impact on reimbursement or coverage for American Indians/Alaska Natives. **The HCBS waiver setting requiring heightened scrutiny will not impact American Indians/Alaska Natives.**

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>.

DPHHS is committed to an extensive public process. We want to provide you the opportunity to review the proposed action, understand the concepts, and offer comments. We invite your comments and questions emailed or postmarked **through January 8, 2024**. You may direct comments or request a hard copy from the Medicaid State Plan and Waiver Coordinator, Director's Office, PO Box 4210, Helena, MT 59604-4210; or by telephone to (406) 444-2584; or by electronic mail to [dphhscomments@mt.gov](mailto:dphhscomments@mt.gov).

Sincerely,

Mike Randol  
Medicaid and Health Services Executive Director/State Medicaid Director

c: Tribal Health Director  
Misty Kuhl, Director, Governor's Office of Indian Affairs  
Stephanie Iron Shooter, American Indian Health Director