

Aug. 23, 2021

PUBLIC NOTICE

SUBJECT: Heightened Scrutiny Category 3 Settings: Submission to CMS; South Carolina Home and Community-Based Services Statewide Transition Plan Updates

The South Carolina Department of Health and Human Services (SCDHHS), pursuant to the requirements of the Centers for Medicare and Medicaid Services (CMS) Home and Community-Based Services (HCBS) Rule at 42 CFR 441.301(c)(6), gives notice that:

- SCDHHS is submitting a list of settings in the South Carolina Department of Disabilities and Special Needs (SCDDSN) network to CMS for heightened scrutiny review under Category 3, defined as settings that may have the effect of isolating individuals receiving Medicaid HCBS from the broader community of individuals not receiving HCBS. South Carolina utilized the below criteria to identify settings in this category:
 - Setting is a Community Residential Care Facility (CRCF) that was formerly an ICF/IID and is physically located next to another CRCF that was also formerly an ICF/IID.
 - Setting is a HUD 811 apartment complex (disability specific complex).
 - Setting has a locked fence around the property.
 - There are three (3) or more HCBS settings clustered together operated by the same provider.
- Settings under Category 3 review will be divided further into two sub-groups based on their Compliance Action Plan quality and robustness and review of all required evidence in this process. These dates have been adjusted in accordance with the [CMS guidance issued on July 14, 2020](#):
 - Settings that can fully implement all their HCBS remediation steps to comply with HCBS regulatory criteria by July 1, 2021. This first list of settings will not be submitted for formal CMS heightened scrutiny review but must be listed in this document for public comment. CMS reserves the right to review any of the settings on this first list.
 - Settings that can fully implement all their HCBS remediation steps to comply with HCBS regulatory criteria but will not be able to do so by July 1, 2021. This second list of settings will be submitted for formal CMS heightened scrutiny review and will be listed in this document for public comment.
- The final approved South Carolina HCBS Statewide Transition Plan has been revised to reflect updated heightened scrutiny settings numbers and information on this heightened scrutiny submission.

This information is released for a public comment period. The full public notice, heightened scrutiny Category 3 settings information and revised South Carolina HCBS Statewide Transition Plan are available online at <https://msp.scdhhs.gov/hcbs/site-page/hcbs-statewide-transition-plan>. The public can provide comments on the heightened scrutiny settings submission and South Carolina HCBS Statewide Transition Plan until Oct. 1, 2021. The heightened scrutiny Category 3 settings and the revised South Carolina HCBS Statewide Transition Plan will be submitted to CMS by Oct. 29, 2021.

Heightened Scrutiny Submission: Category 3 SCDDSN Settings:

To comply with CMS' requirements per 42 CFR 441.301(c)(5)(v) under Category 3, SCDHHS will submit the following SCDDSN network settings to CMS for heightened scrutiny review:

- Boyd Community Training Home (CTH) II
- Brentwood Apartments Supervised Living Program II (SLP II)
- Brown CTH II
- Cain CTH II
- Camp CRCF
- Canvasback CTH II
- Canvasback SLP II
- Code CTH II
- Fair Creek CTH II
- Farmington CRCF
- Independence Place A1 CTH II
- Independence Place A2 CTH II
- Independence Place B CTH II
- Keowee CTH II
- McGowen CTH II
- Nalley CTH II
- Powell CTH II
- Rice Road CTH II
- Tribble Work Activity Center
- Vanguard I CRCF
- Vanguard II CRCF
- Woodduck SLP I
- Woodduck SLP II

Information supporting SCDHHS' determination that these settings overcome the presumption they have institutional qualities and will be compliant with CMS' HCBS settings criteria by the end of the transition period can be found at the SCDHHS HCBS website: <https://msp.scdhhs.gov/hcbs/site-page/hcbs-statewide-transition-plan>

Settings that were reviewed for heightened scrutiny but were subsequently found to have overcome their presumed institutional qualities and be compliant by July 1, 2021, with the HCBS regulatory criteria are listed in [Appendix O](#) for public review and comment.

Revisions

The following is a summary of the revisions, by section, made in the South Carolina HCBS Statewide Transition Plan (final approval was granted by CMS Feb. 4, 2020):

Section 1, Introduction

- Updated table of contents, added appendices (available at the SCDHHS HCBS website referenced above)
- Page 5: updated revisions to Statewide Transition Plan table to reflect current revisions

Section 2, Communication and Outreach

- Page 13: inserted current update of this public notice

Section 5, Heightened Scrutiny

- Page 101 - 102: updated overall settings numbers under state-level review since the March 2021 submission of the Statewide Transition Plan and Category 2 settings
- Page 113: updated dates final determinations, public notice and comment period for Category 3 settings

Appendices

- The following appendices were added to this version (with links to the direct appendices in the document) at <https://msp.scdhhs.gov/hcbs/site-page/statewide-transition-plan>:
 - Appendix A-6: summary of public comments for current public notice and comment period
 - Appendix O: State-level heightened scrutiny, SCDDSN Category 3 settings compliant by July 1, 2021
 - Appendix P: State-level heightened scrutiny: SCDDSN Category 3 settings submitted for CMS heightened scrutiny review

Communication

A copy of the full public notice and the revised South Carolina HCBS Statewide Transition Plan is available at the following locations:

1. Website:
 - a. <http://scdhhs.gov/hcbs> (under “Resources,” “Statewide Transition Plan”)
 - b. <http://scdhhs.gov> (under the “Public Notice” section)
2. Hardcopies:
 - a. SCDHHS Main Office, 1801 Main Street, Columbia, SC 29201

Information on the heightened scrutiny Category 3 settings submission and the revised Statewide Transition Plan will be discussed in the following public webinar:

Aug. 25, 2021 (Online Webinar)

11:30 a.m. – 1 p.m. *(will be recorded for later viewing)*

Link to register:

<https://scdhhs.webex.com/scdhhs/onstage/g.php?MTID=ec31144edd8d69c113a94afcaa3b879d9>

Individual webinars have been scheduled specifically for the waiver participants who live in the submitted residential settings and/or attend the submitted non-residential (day) setting.

Two webinars will be held in August for the waiver participants who live in the residential settings and/or attend the non-residential (day) setting that were reviewed for heightened scrutiny but subsequently demonstrated compliance by July 1, 2021.

Public Comment and Responses

SCDHHS wants to hear from the public about the heightened scrutiny Category 3 settings submission and the revised South Carolina HCBS Statewide Transition Plan.

Public comments must be received by 5 p.m. Oct. 1, 2021, and can be submitted through the following methods:

1. Online: <https://msp.scdhhs.gov/hcbs/webform/comments-questions>
2. Email: comments@scdhhs.gov
3. Mail:

Office of Compliance
ATTN: Kelly Eifert, Ph.D.
South Carolina Department of Health and Human Services
P.O. Box 8206
Columbia, SC 29202-8206

Please visit <http://scdhhs.gov/hcbs> for information on the HCBS rule, the public notice and the Statewide Transition Plan.