

**LEGAL NOTICE  
STATE OF NEW JERSEY  
DEPARTMENT OF HUMAN SERVICES  
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES**

**REQUEST FOR PUBLIC COMMENT**

In January 2014, the Centers for Medicare & Medicaid Services (CMS) issued a final rule to ensure that Medicaid's home and community-based services (HCBS) programs provide beneficiaries full access to the benefits of integrated community living and person-centered care.

Known as the HCBS Settings Rule, the rule was established to support the delivery of high quality HCBS in state Medicaid programs and to provide certain protections to participants. In describing the rule's intent, CMS emphasized individuals having full access to the benefits of community living and the opportunity to receive services in the most integrated setting.

The HCBS Settings Rule applies to settings where individuals live and/or receive Medicaid-reimbursable HCBS. In New Jersey, this includes but is not limited to: Assisted Living Residences, Comprehensive Personal Care Homes, the service of Adult Family Care, Community Residences for Individuals with Developmental Disabilities, Community Care Residences, Community Residential Services for Persons with Traumatic Brain Injury and Medicaid funded prevocational and day services.

DHS released a [request for public comment](#) on July 18, 2022, where DHS sought information on the heightened scrutiny evaluation process, the evaluation tools, and the settings the State identified as non-compliant with the HCBS settings rule and subject to a heightened scrutiny assessment.

By this Notice, DHS is requesting public comment on the outcomes of the Heightened Scrutiny assessments. These outcomes can be found in [Addendum #3](#) of the Statewide Transition Plan.

Through the State review, the presumptively institutional settings have been determined to be capable of reaching compliance by March 17, 2023. Following this public comment period, these findings will be submitted to CMS for review. If CMS does not agree with the State's determinations or requires additional information, the impacted service location will be notified so discussion on next steps can occur.

Additionally, DHS is requesting public comment on the [Statewide Transition Plan](#) (STP) in its entirety. The STP was initially posted for public comment on January 26, 2015. Since the initial posting, the transition plan has been updated in response to feedback from the public and CMS as captured in [Statewide Transition Plan Addendum #2](#).

While comment is being accepted for all sections of the [Statewide Transition Plan](#), the documents that have been further edited since the initial posting include:

- [Statewide Transition Plan Addendum](https://www.state.nj.us/humanservices/dmahs/info/STP_%20Addendum_Update_10-5-22.pdf), December 8, 2016
- [Statewide Transition Plan Addendum #2](https://www.state.nj.us/humanservices/dmahs/info/STP_Addendum_Update.pdf), January 6, 2022
- [Appendix A – Statewide Transition Plan Crosswalk](https://www.state.nj.us/humanservices/dmahs/info/STP_crosswalk_plan.pdf), January 6, 2022
- [Statewide Transition Plan Addendum #3](https://www.state.nj.us/humanservices/dmahs/info/STP_Addendum_10-4-22.pdf), October 4, 2022
- [Heightened Scrutiny Process Public Comment](https://www.state.nj.us/humanservices/providers/grants/public/publicnoticefiles/HS%20HCBS%20Setting%20Rule%20FINAL.pdf), July 18, 2022
- [Heightened Scrutiny Settings](https://www.state.nj.us/humanservices/providers/grants/public/publicnoticefiles/Attachment%20A%20-%20Heightened%20Scrutiny%20Report%20FINAL.pdf), July 18, 2022
- [Heightened Scrutiny Assessment Template](https://www.state.nj.us/humanservices/providers/grants/public/publicnoticefiles/Attachment%20B%20-%20NJ%20HS%20Template%20(002).pdf), July 18, 2022

Public comment related the Statewide Transition Plan and Heightened Scrutiny may be submitted to [DMAHS.HCBS-Settings-Rule@dhs.nj.gov](mailto:DMAHS.HCBS-Settings-Rule@dhs.nj.gov) by **November 7, 2022.**

More information on the CMS HCBS Settings Final Rule can be found here: <https://www.medicaid.gov/medicaid/home-community-based-services/guidance/home-community-based-services-final-regulation/index.html>

CMS Initial Approval of the NJ Statewide Transition can be found here: <https://www.state.nj.us/humanservices/dmahs/info/CMS%20INITIAL%20APPROVAL%20OF%20Statewide%20Transition%20Plan.pdf>