

**State of Nevada Department of Health and Human Services (DHHS) Division of Health
Care Financing and Policy (DHCFP)**

Home and Community Based Services (HCBS) Corrective Action Plan (CAP)

Information on which criteria the state will need extra time to ensure full provider compliance.

The State is requesting a CAP for the submission of the Heightened Scrutiny (HS) package to CMS for a Heightened Scrutiny review. CMS presumes the following types of settings to have institutional/isolating qualities: Prong 1: Settings located in a building that is also a publicly or privately operated facility that provided inpatient institutional treatment; Prong 2: Settings in a building on the ground of, or immediately adjacent to, a public institution; and Prong 3: Any other setting that has the effect of isolating individuals receiving Medicaid HCBS from the broader community of individuals not receiving Medicaid HCBS. The State has determined that two settings within the state overcame the presumption of an institutional setting as detailed below:

1. Setting: Jobs and Day Training (JDT) Center

Prong 3: Settings that have the effect of isolating individuals receiving Medicaid HCBS from the broader community of individuals not receiving HCBS.

2. Setting: Residential Facility for Groups (RFG)

Prong 2: The setting is in a building on the grounds of/or immediately adjacent to a public institution.

The state's efforts to bring providers into compliance with those criteria, and the PHE-related impacts that created barriers to compliance.

The State determined that the two settings (JDT Center and RFG) overcame the presumptive institutional characteristics by completing follow up on-site visits:

JDT Center: The State reviewed the provider's self-assessment and determined that the facility required an on-site visit for validation. In 2018 the state conducted an on-site visit for validation to the JDT Center and determined that the facility met all settings criteria. In September 2019 CMS conducted an on-site visit of the facility and provided feedback that the facility needed a review for HS (Prong 3: Settings that have the effect of isolating individuals receiving Medicaid HCBS from the broader community of individuals not receiving HCBS). Prior to the COVID-19 Pandemic, the State had conversations with the facility regarding remediation plan to overcome the presumption of HS Prong 3. In 2022, the facility responded and provided remediation addressing how to overcome the presumption of HS Prong 3. The State prepared the evidentiary packet (based on the facility's remediation) and posted it for public comment from August 29, 2022 – September 29, 2022. No public comments were received, and the State submitted the evidentiary packet to CMS on October 12, 2022. CMS provided feedback that the evidentiary packet was incomplete as the assessment for all settings criteria was not included. The State will need to update the evidentiary packet to include the settings criteria and repost for 30-day public comment (TBD) prior to re-submission to CMS.

RFG: The State reviewed the provider's self-assessment and determined that the facility needed a review for HS (Prong 2: The setting is in a building on the grounds of/or immediately adjacent to a public institution). On October 12, 2017 the State submitted the HS Evidentiary Packet to CMS after it was posted for 30-day public comment. Based on CMS' feedback, the State conducted a second on-site visit to the facility on June 27, 2018 to address the areas that needed remediation. The State then submitted the "Summary of Findings" to CMS. In September 2019, CMS conducted an on-site visit and determined that the facility required an additional remediation plan. Prior to the COVID-19 Pandemic, the State had a conversation with the facility regarding CMS' feedback and the required remediation plan. However, in the year 2020 and during the COVID-19 Pandemic the remediation plan was put on hold. On August 5, 2021, the State resumed the on-site visit to validate that the facility had remediated CMS' findings. Based on the facility and recipients' responses and the State's review, it was determined that the facility overcame the institutional presumption. The State posted the "Summary of Findings" for public comment from August 29, 2022 – September 29, 2022. No public comments were received, and the State submitted the "Summary of Findings" to CMS on October 12, 2022. Currently, the State is waiting for CMS to adjudicate the "Summary of Findings".

The state's plan to overcome encountered barriers, and the time needed to do so.

1. The State is waiting for CMS to adjudicate the "Summary of Findings" submitted for the RFG.
2. The State is in the process of updating the evidentiary packet for the JDT center.

The State is requesting until May 2023 for completion and submission of the evidentiary packet, and adjudication of the "Summary of Findings".