

2021



[HOME & COMMUNITY BASED SERVICES (HCBS) HANDBOOK]

Home & Community Based Services (HCBS)

General Information

The Centers for Medicare and Medicaid Services (CMS) released the Home and Community Based Services (HCBS) Final Rule on January 16, 2014. The HCBS Final Rule impacts Medicaid services provided and aims to improve the quality of life of individuals, allowing them to live and receive services in the least restrictive setting possible with full integration in the community. In the State of Michigan, the Michigan Department of Health and Human Services (MDHHS) is responsible for ensuring requirements are met.

The HCBS Final Rule includes requirements for the person-centered planning process to ensure individuals are involved in planning their services and supports to the maximum extent possible and their wishes are reflected in their person-centered plan.

There are also requirements for the settings services are provided. Settings in which individuals live (residential) and settings where individuals go to receive services (non-residential) are affected by the HCBS Final Rule. The setting requirements aim to ensure community integration and to ensure individuals receiving Medicaid HCBS have the same opportunities as individuals in those settings who are not receiving Medicaid HCBS.

Programs in existence before March 17, 2014 must be compliant with the federal HCB Settings Requirement on or before March 17, 2022.

Characteristics of a Home & Community Based Setting

All HCB settings where people live or receive Medicaid HCBS must have the following characteristics to the same extent as those individuals not receiving Medicaid HCBS:

- Integrated in, and support full access to, the greater community, including opportunities to seek competitive and integrated employment, control of personal resources, and access to community services;
- Selected by the individual from among a variety of setting options and, for residential settings, consistent with the individual's available resources to pay for room/board;
- Ensure the right to privacy, dignity and respect, as well as freedom from coercion and restraint;
- Optimize but not regiment the individual's autonomy and independence in making life choices regarding what they participate in and with whom; and
- Facilitate the individual's choice of services and supports, as well as who provides them.

All settings must demonstrate the qualities of HCB settings, ensure the individual's experience is not institutional in nature, and does not isolate the individual from the community. If the setting is designated for people with disabilities, or if the individuals in the setting are primarily or exclusively people with disabilities and the staff on-site provide many services to them, the setting must facilitate and encourage people to go out into the broader community.

According to the HCBS Final Rule, reverse integration does not make a setting HCB. Reverse integration is when the provider brings community providers into the setting (residential or non-residential) instead of the individual going out to the provider. This could include medical providers, clergy, cosmetologists, nail artists, etc. It is acceptable for providers to come into the settings, but it must not be the only contact with community providers for individuals receiving services. Individuals must have the option to go to community providers.

Residential

Residential setting requirements apply to provider-owned or controlled setting, licensed or unlicensed (H2016, H2015). This includes services authorized with any modifiers, such as UJ, UN, UP, UQ, UR, US. An individual's private home is presumed compliant with HCB requirements.

Requirements for residential settings:

- Meals – access to food at any time
- Visitors – of their choosing at any time
- Lockable doors – bedroom and bathroom
- Freedom to furnish/decorate their room
- Choice of available roommate
- Freedom to control schedule, activities and resources
- Privacy
- Accessibility – must be able to move around the setting without physical barriers
- Evictions and Appeals – must have a lease or other legally enforceable agreement with comparable responsibilities and protections
- House Rules are not permitted
- Control of own personal resources

Non-Residential

The requirements for non-residential settings apply to provider-owned/controlled settings.

Requirements for non-residential settings:

- Skill building (H2014)/Out of Home Non-Vocational (H2014 HK) (including modifiers, such as TT) services provide opportunities for regular meaningful non-work activities in integrated community settings for the time desired by the individual.
- Community Living Support (H2015) (including modifiers such as UJ, UN, UP, UQ, UR, US) must promote community inclusion and participation and facilitate independence and productivity. Provide opportunities for community integration.
- Supported Employment (H2023) (including modifiers such as TT) setting options offered should include community-based, integrated work settings where individuals with disabilities work alongside other individuals who do not have disabilities.

Non-Compliant HCBS Settings

CMS has identified some settings that will never be considered HCB due to their institutional status. These settings are:

- Nursing facilities
- Institutions for mental disease
- Intermediate care facilities for individuals with intellectual disabilities
- Hospitals
- Other locations that have characteristics of an institution (e.g. Child Caring Institutions)

Quality of Life Documentation Forms

The Quality of Life forms have been integrated into CIGMMO as parts of the Person Centered Plan and Addendums. These documents will assist with Home and Community Based Services (HCBS) compliance and identify items that will need to be documented in the PCP/Addendum due to health or safety issues. The first question identifies if the individual is/will be receiving services that fall under non-residential HCBS services. If the “Yes” radio button is checked the remainder of the form appears and must be completed. The second question applies for individuals receiving residential HCBS services. This includes licensed settings as well as unlicensed settings where the provider of CLS also owns the home/apartment. If the “Yes” radio button is checked the remainder of the form appears and must be completed.

2. PCP Addendum: Quality of Life

Quality of Life

Are you interested in receiving any of the following services: skill building (H2014, out of home non-vocational service (H2014 HK), prevocational service (T2015), or supported employment (H2023)?

Yes No

Are services being requested that will be provided in a licensed setting (H2016) or an unlicensed setting owned by the provider of service (H0043 or H2015)?

Yes No

When doing an addendum or new PCP the Quality of Life section must be completed so that information gets embedded in the PCP section of the consumer chart. After it’s been completed at least once, you will then complete this during every PCP date or during addendums when either the services are being added or the service provider is changing.

The form needs to be completed documenting the individual’s response to each area on the form. If there is a health or safety need that is being addressed with a modification in the PCP the form needs to reflect the modification is being done. For example, if a person has a health/safety need (with documentation from a doctor, occupational therapist, behavioral psychologist) to lock the kitchen and the Behavior Treatment Committee (BTC) has been consulted and given approval, the question “I have

full access to all areas of the home including the kitchen, dining area, laundry area, comfortable seating” should be answered no. Then, a comment needs to be added to the “Explanation/Notes” section indicating the modification to access to the kitchen and where to find details in the PCP. The other individuals living in the home would also need to indicate they do not have full access to the kitchen as well as a comment added to the “Explanation/Notes” section and additional details in the PCP as to how the individuals will have access to food/kitchen as well as if they want to continue to live in the home given the kitchen is locked (modification).

Index	2. PCP Addendum: Quality of Life
1. Addendum	<div style="background-color: #e8f5e9; padding: 5px;"> Quality of Life Are you interested in receiving any of the following services: skill building (H2014, out of home non-vocational service (H2014 HK), prevocational service (T2015), or supported employment (H2023)? <input checked="" type="radio"/> Yes <input type="radio"/> No </div> <div style="background-color: #fff9c4; padding: 5px; margin-top: 5px;"> The Home and Community Based Final Rule (HCBS) is to help you live your life as you would like to live it. This includes assisting you with your choices about where to live, work and being part of your community. The Person-Centered Planning Process will assist you through the process. This form is to help us know your choices. </div> <div style="margin-top: 5px;"> Name of Provider <input type="text"/> <div style="float: right;"><input type="radio"/> Initial <input type="radio"/> Annual</div> </div> <div style="margin-top: 5px;"> Given the choices available to you/your child at this time, do you want to continue with your current provider? <small>You have the right to choose the non-residential (supported employment, skill-building, out-of-home non-vocational and prevocational service) providers from available options.</small> <input type="radio"/> Yes <input type="radio"/> No </div> <div style="margin-top: 5px;"> If I/my child want to become employed or am not happy with my current provider, I can contact my caseholder Caseholder <input type="text"/> Phone Number <input type="text"/> </div> <div style="margin-top: 5px;"> I/my child am aware that I can make changes at any time by contacting my caseholder (listed above) <input type="radio"/> Yes <input type="radio"/> No </div> <div style="margin-top: 5px;"> I/my child am able to choose from the available hours and days that I/my child attend <input type="radio"/> Yes <input type="radio"/> No </div> <div style="margin-top: 5px;"> I/my child receive privacy while doing or receiving personal care (Examples: using the bathroom, dressing) <small>If no, this needs to be addressed with the provider</small> <input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A </div> <div style="margin-top: 5px;"> The amount of time I/my child spend with people from the community while I/my child attend this program meets my needs and choices <input type="radio"/> Yes <input type="radio"/> No </div> <div style="margin-top: 5px;"> My/my child's lunch break is scheduled the same as other people working my/my child's job <input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A - I am not employed </div> <div style="margin-top: 5px;"> I/my child receive similar benefits as those working the same job <input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A - I am not employed </div>

Please review the consumer’s responses to identify the areas that need to be addressed in the IPOS or Addendum. Is the provider in the process of implementing the HCBS requirement? If so, the IPOS needs to state what the provider is doing to address the HCBS requirement and the date the changes will be completed.

Modifications Due To a Health/Safety Need

Does the individual need a modification of a HCBS rule due to a health and/or safety issue? If so, is there an assessment by an appropriate professional outlining the needs of the individual? If there is not, an assessment will be needed before the modification can be included in the IPOS.

When there is an assessment by a professional within their scope of practice (occupational therapist, dietician, doctor, psychologist, etc.) indicating a modification to a HCBS requirement is needed, the IPOS

must include the following information related to the specific modification (**Intervention/Supports section**):

- The IPOS must describe the assessed health and safety need (such as access to food due to Prader Willi Syndrome).
- Have there been positive interventions/supports used in the past to address the health and/or safety need? If there has been they need to be spelled out in the IPOS. If there have not then that needs to be documented as well.
- Have other less intrusive methods that were not effective been used to attempt to meet the needs in the past? If so, the IPOS needs to include what has been tried and didn't work.
- Describe what is needed to address the assessed health or safety issues requiring modification. The interventions/supports must match the need identified in the assessment; cannot be overly restrictive.
- Describe the data to be collected to evaluate the effectiveness of the modification.
- Specify when the periodic reviews will be done to determine if the modification is still needed or can be eliminated.
- Document the consent of the person/guardian for which the modification is being proposed.
- Assurance the modification will not cause harm to the person.

If the criteria for a Behavior Treatment Plan is met, then a Behavior Treatment Plan must be completed. Submit a Consultation Note to the Behavior Treatment Committee to start the process.

Behavior Treatment Committee Information

Behavior Treatment Committee meets monthly to review and approve any treatment proposed for consumers CMHCM serve that include

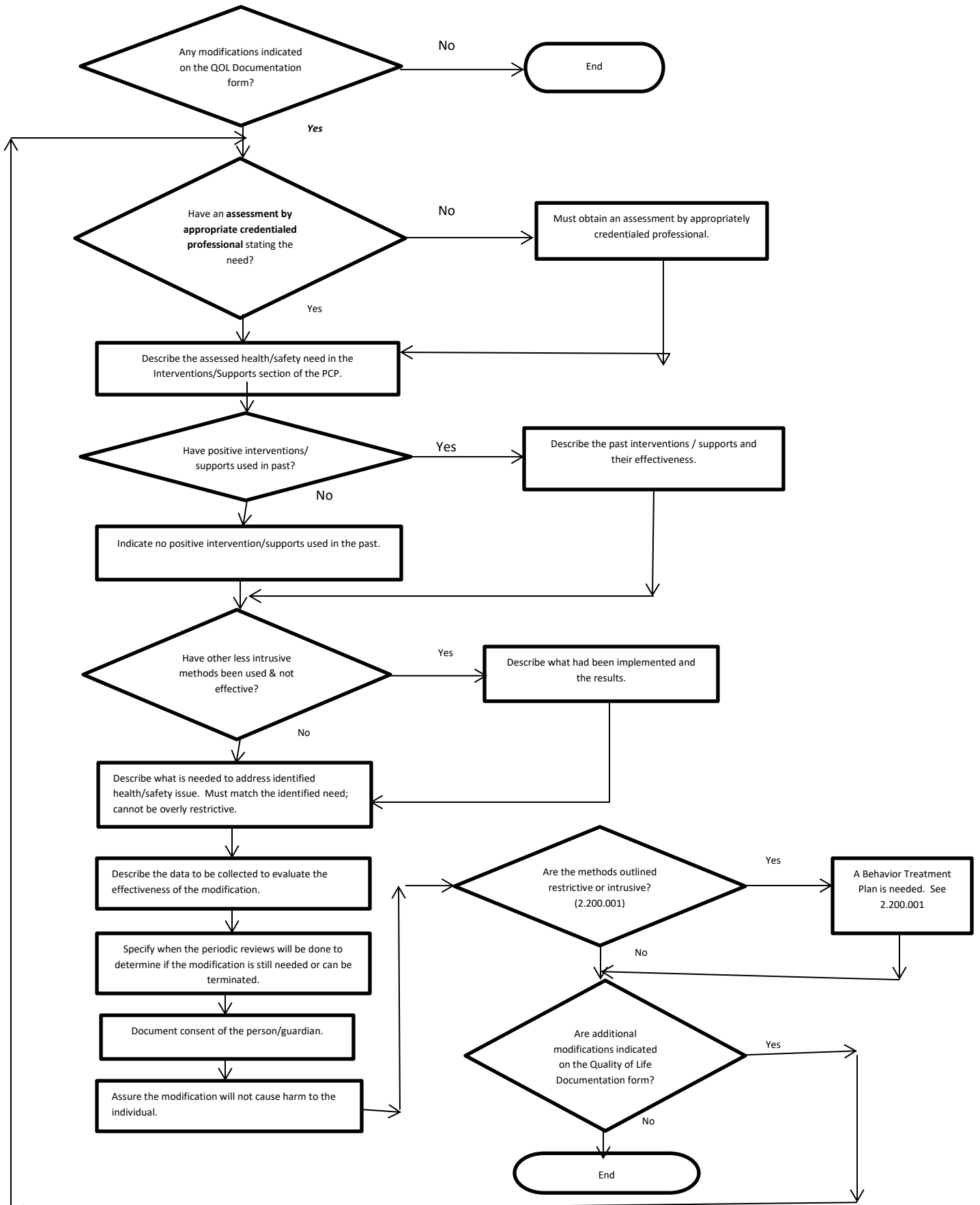
1. Anyone who is receiving **intrusive or restrictive** measures as part of treatment method (including ABA plans that may have intrusive/restrictive measures incorporated)
2. A child under the age of 18 receiving **medication to treat behavioral symptoms**
3. Anyone who is receiving **medication above the normal dosage (including medication given "as needed" for behaviors)**

**BTC does have the ability to approve Behavior treatment plans on an urgent basis, as long as more than one BTC member can independently review and then subsequently approve the plan as completed. These approvals are generally only given until the next BTC meeting, during which a more comprehensive review can be completed by the entire Committee. Please reach out to BTC Chair if there is a need for an urgent BTC review.

Intrusive Technique: Those techniques that encroach upon the bodily integrity or the personal space of the individual for the purpose of achieving management or control, of a seriously aggressive, self-injurious or other behavior that places the individual or others at risk of physical harm. Examples of such techniques include the use of a medication or drug when it is used to manage, control or extinguish an individual's behavior or restrict the individual's freedom of movement and is not a standard treatment or dosage for the individual's condition.

Restrictive Technique: Those techniques which, when implemented, will result in the limitation of the individual's rights as specified in the Michigan Mental Health Code and the federal Balanced Budget Act. Examples of such techniques used for the purposes of management, control or extinction of seriously aggressive, self-injurious or other behaviors that place the individual or others at risk of physical harm, include: limiting or prohibiting communication with others when that communication would be harmful to the individual; prohibiting unlimited access to food when that access would be harmful to the individual (excluding dietary restrictions for weight control or medical purposes); using the Craig (or veiled) bed, or any other limitation of the freedom of movement of an individual

Modifications to HCBS Requirements:



HCBS Assessment Process

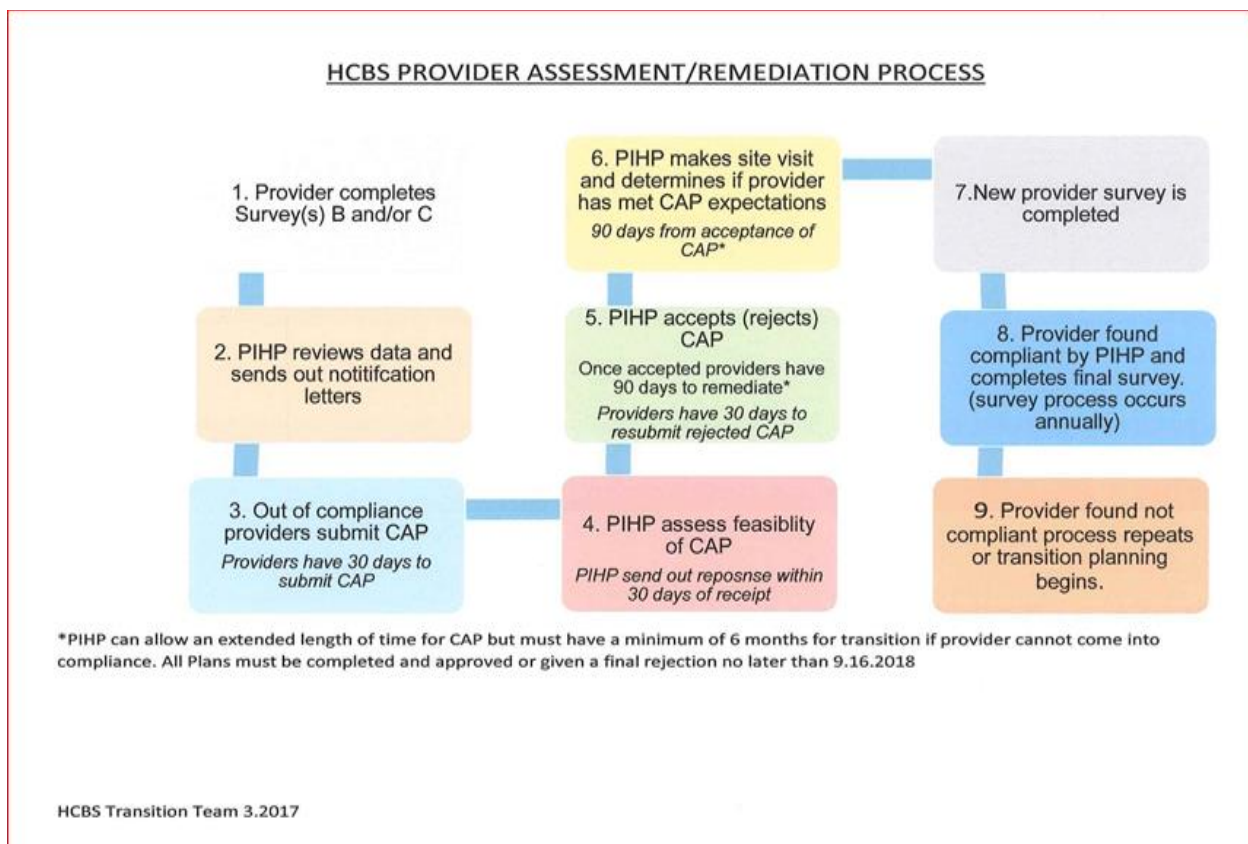
All HCBS providers (HSW and B3) complete surveys as well as consumers, with assistance from their case holder, complete surveys for each provider. The purpose of the surveys is to determine to what extent a setting is consistent with HCBS requirements and what corrections need to be made. Michigan's Statewide Transition Plan for Home and Community-Based Services includes ongoing reassessment of providers to ensure they remain HCB. The reassessment process will occur through the survey process administered to both the provider and the consumer.

The reassessment process also includes the Provider Network site review process. Corrective Action Plans are required for all deficiencies noted. The clinical team also assesses HCBS compliance through the PCP process annually and at the time of addendums.

Corrective Action Process (CAP)

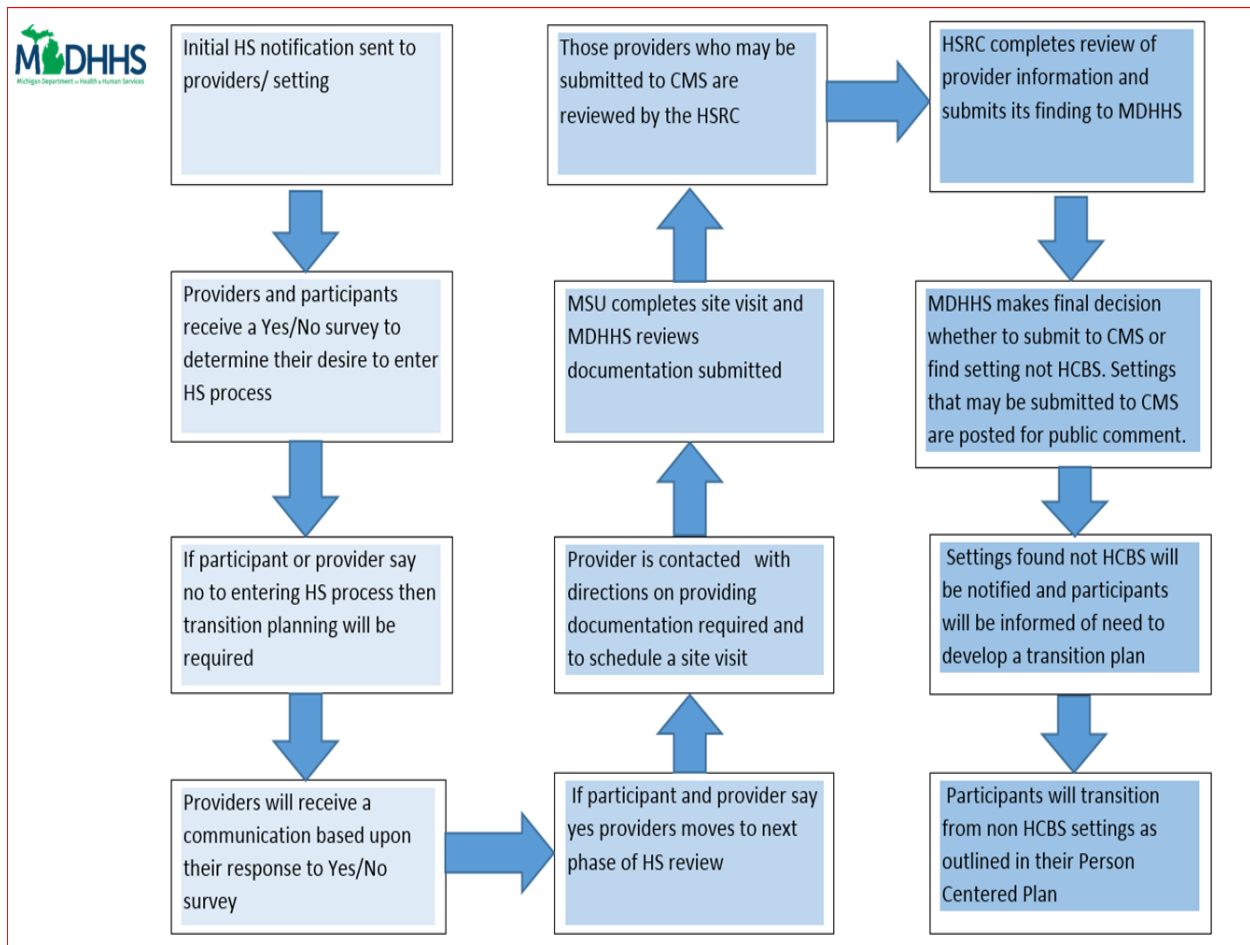
Survey responses that indicate a setting is either institutional or isolative in nature must go through the Heightened Scrutiny (HS) process. See section below.

For all other areas identified as out of compliance through the survey process, the provider must develop a corrective action plan to address the issue. IPOS for consumers requiring a modification to the specific area due to a health and/or safety issue must include all the information listed in the "Modifications Due To a Health/Safety Need."



Heightened Scrutiny (HS)

Heightened scrutiny is a process for State and CMS to further evaluate settings wanting to provide HCB services that appear to be institutional or isolative in nature, based on survey responses. This review involves MDHHS and its contracted entities (MSU). Only settings that can comply 100% with the federal HCB setting requirements will be submitted to CMS to review for approval. Additional information on the Heighted Scrutiny process can be found in the [Statewide Transition Plan](#).



HCBS Tips:

- The PCP must list the areas of interest and activities that each person enjoys. The spending logs must also match their interests/activities.
- Individuals need to have access to their bedroom keys (unless there is a modification). They can choose to put them in a drawer or hang them up in their room, but they need access.
- Are there fences, gates, locked doors, or other ways to block individuals from entering or exiting certain areas of their home/grounds? If so, is there a health/safety need for one of the CURRENT residents of the home? Was this put in place for someone that no longer lives in the home? If there is a concern about a current resident please consult with BTC.

- In order to show the home is not isolating individuals from the greater community (non-compliance with HCBS), there is an expectation that residents have opportunities for full community integration that meets the HCBS standard of more than once per week. Providers need to ensure that outings are offered that are meaningful and individualized based on the likes and preferences identified in the PCP. Activities that are good to document but should not be counted as community inclusion outings to meet the HCBS standard of more than 1x per week are walks around the block (without any interactions except staff), van/car rides, day programs and medical appointments. Community inclusion opportunities that are offered and declined need to be documented by the provider and include where the activity would have taken place if the consumer had chosen to participate. When PCPs are done, please be mindful of this HCBS requirement and the wording. If individuals have goals in this area they need to be in quotes and the interventions need to outline the steps the provider is going to take as far as offering the community activities to show they are not being isolative.
- If a person needs personal care and shares a room, the provider needs to have a curtain/removable divider for privacy.

Transition Process

If a provider is unable to come into compliance with the HCBS Final Rule, the transition process begins to work with individuals to transition them to a compliant setting. The case holder will convene a person centered planning meeting with the individual and their family and friends to identify the needs, desires and preferences of the individual related to where they wish to live and receive services. The current vacancy list can be reviewed to determine the existing vacancies to discuss at the meeting. If the individual is interested in moving into a vacancy, consent to share information will be needed to discuss the needs of the individual with the provider. If the new provider agrees it may be a good fit, a visit or visits to the new setting can be done to allow the individual to experience the home and decide if they would like to move there. The timeline to complete the transition process is six months.

New HCBS Providers – Provisional Approval

Any new HCBS provider and their network must be in immediate compliance with the HCBS Final Rule effective October 1, 2017. The proposed provider will complete a HCBS Residential or Non-Residential Provider Provisional Approval Application and submit it to Provider Network Management. Information on the consumer pursuing services from this provider must also be sent to Mid-State Health Network. The application is forwarded to Mid-State Health Network for review along with the Individual Plan of Service (IPOS), assessment, Positive Behavior Support /Behavior Treatment Plan. A site visit is conducted to determine if the site is HCB compliant. Services can only be authorized if the site is granted provisional approval. Once provisional approval is given, MSHN will initiate comprehensive surveys within 90 days of the consumer's first IPOS. The PIHP will follow-up if there are any HCBS issues identified in the survey process.

Resources

[Home & Community Based Services Settings Policy 2-300-033](#)

[Michigan Medicaid Provider Manual](#) (See Home & Community Based Services Chapter)

[MDHHS – Home and Community Based Services Program Transition](#)

- Federal Register – HCBS Final Rule
- Statewide and Individual Waiver Transition Plans
- Survey Tools and Process
- Readiness Tools for Residential and Non-Residential Providers
- Heightened Scrutiny Flowcharts - Institutional and Isolative Settings
- Outreach & Education:
 - Link to CMS Webpage on the Final Rule
 - HCBS Frequently Asked Questions
 - HCBS Joint Guidance Document Webinar
 - Person Centered Planning Webinar

[Developmental Disabilities Institute \(DDI\) HCBS Webpage](#)

- Qualtrics and Word versions of the surveys
- Information & Education Materials
 - HCBS Rule Fact Sheet (1 page)
 - Beneficiary Booklet
 - Beneficiary PowerPoint Slides
 - Family PowerPoint Slides
 - Heightened Scrutiny