

Heightened Scrutiny Workflow

On March 17, 2014, the Centers for Medicaid and Medicare Services (CMS) issued its [final rule](#) regarding settings for home and community-based services (HCBS) offered through the Assisted Living Waiver and the PASSPORT Waiver. This rule was established to ensure Medicaid's HCBS programs provide individuals full access to the benefits of community living and offer services in the most integrated settings no matter where an individual resides.

For those settings that are presumed to be institutional, the state may submit evidence to CMS demonstrating the setting does not have the qualities of an institution.

CMS will ultimately determine which HCBS settings comply with the new regulations utilizing a process called [Heightened Scrutiny](#). Heightened Scrutiny is the process where CMS reviews the evidence submitted by the state that a setting meets HCBS regulations and decides whether the evidence is sufficient to overcome the presumption that the setting has the qualities of an institution.

Accordingly, to ensure the Heightened Scrutiny process is integrated into the Ohio Department of Aging (ODA) workflow to become a certified ODA provider, ODA will adopt the following process for reviewing new provider applications:

1. A licensed residential care facility or licensed adult day service provider seeking to provide Medicaid-funded services must be certified by ODA. To be certified, the prospective provider must apply through the Provider Certification Wizard (PCW) on the ODA website. This includes prospective provider's self-assessment by completing the Ohio Department of Medicaid (ODM) form [10172](#), Home and Community-Based Services (HCBS) Settings Evaluation Tool.
2. Once a completed application is submitted, ODA will review the application and accompanying materials and will follow current process in place for review of all provider applications pursuant to section 173-39-03 of the Administrative Code.
3. An on-site precertification review will be conducted in accordance with Chapter 173-39 of the Administrative Code, which will include a review of whether the setting meets the HCBS setting requirements. For settings that are presumed to be institutional, the on-site precertification review will include collecting additional evidence including, but not limited to, desk reviews, on-site reviews and observations, and interviews with staff and residents to determine if the setting can overcome the institutional presumption.
4. Once the on-site precertification review is completed, ODA will determine whether a provider is eligible for certification. If the setting is subject to Heightened Scrutiny, ODA will complete the Heightened Scrutiny Evidence Package ([ODM Form 10204](#)).
5. On a quarterly basis, ODA submits the completed Heightened Scrutiny Evidence Packages (ODM Form 10204) to ODM for public comment via ODM's [website](#).

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6. The comment period will be open for 30 days. Within 14 calendar days from the conclusion of the comment period, ODA will review and provide responses to comments received on Heightened Scrutiny Evidence Packages. These comments and their responses will be included as part of the provider's Heightened Scrutiny Evidence Package (ODM Form 10204).
7. Once completed, ODA submits the Heightened Scrutiny Evidence Packages (ODM Form 10204) to ODM for submission to CMS to conduct the Heightened Scrutiny review. ODA anticipates the first submissions to begin on December 15, 2017, at the earliest.
8. While CMS is performing its Heightened Scrutiny review, the provider cannot be certified by ODA and therefore, is unable to serve ODA waiver consumers. Note: At this time, ODA is unaware of any mechanism to check the status of Heightened Scrutiny reviews conducted by CMS.
9. After CMS' review of a Heightened Scrutiny Evidence Package, CMS will notify ODM if the evidence indicates a setting demonstrates the characteristics of a home and community- based setting, or if the setting demonstrates characteristics of an institution. ODM will notify ODA of CMS' decision.
10. If the setting is determined by CMS to demonstrate the characteristics of a home and community-based setting and is approved to provide waiver services, the provider will be placed into an expedited process to complete ODA certification. The provider should expect to receive a notification within two weeks of notification from ODA their application for certification has been approved.
11. If the provider is determined by CMS to demonstrate the characteristics of an institution and is not approved by CMS to provide waiver services, ODA may not certify the provider and ODM may not issue a Medicaid provider number. ODA will deny the provider's application and providers will be issued hearing rights.