



GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT ON DISABILITY SERVICES

PROCEDURE	
Subject: Home and Community Based Services for People with Intellectual Disabilities Day Setting Heightened Scrutiny Review	Procedure No. 2018-DDS-PR-02
Responsible Program or Office: Office of the Director	Effective Date: May 25, 2018
	Number of Pages: 3
Date of Approval by Director: May 24, 2018	Expiration Date: N/A
Cross Reference, Related Policies and Procedures, and Related Documents: HCBS Settings Rule Compliance Policy; DDA Provider Certification Review Policy; DDS Transition Policy and Procedure; Statewide Transition Plan.	

1. PURPOSE

The purpose of this procedure is to describe the Department on Disability Services’ (DDS’) methodology for determining whether, when and how to submit a facility-based Home and Community Based Services (HCBS) Settings Day Setting for people with intellectual disabilities to the Centers for Medicare & Medicaid Services (CMS) for Heightened Scrutiny review, and to name which DDS administration or program is responsible for the various associated tasks.

2. APPLICABILITY

These procedures apply to the DDS Developmental Disabilities Administration (DDA) and all providers of facility-based Day Habilitation and Employment Readiness settings.

3. PROCEDURES

- A. The DDS Quality Assurance and Performance Management Administration (QAPMA) tracks DDS’ compliance with this procedure, provides quarterly written reports on the status to the DDS Director, the DDS Deputy Director for DDA, and the DDS State Office of Policy, Planning and Innovation (SOPPI).
- B. The DDS Provider Certification Review (PCR) team performs the HCBS Settings site-by-site assessment for Day Habilitation or Employment Readiness settings as part of the regular PCR process.





- C. For the purposes of heightened scrutiny determinations, DDS uses findings from PCR annual reviews only. Providers who have deficient findings during a 6-month PCR have an opportunity to cure prior to their next annual review.
- D. A provider may appeal PCR determinations in accordance with the Provider Certification Review Policy.
- E. When annual PCR finds that a facility-based Day Habilitation or Employment Readiness setting does not comply with two (2) or more PCR indicators from the HCBS Settings Rule section below, under the terms of the approved final Statewide Transition Plan (STP), DDS will presume that non-compliance indicates that the setting has "the effect of isolating individuals receiving Medicaid-funded HCBS from the broader community of individuals not receiving Medicaid-funded HCBS." By January 2019, DDS will either:
 - 1. Submit the setting to CMS for heightened scrutiny review; or
 - 2. Determine the setting is not likely to meet the HCBS Settings Rule by March 17, 2019, begin to transition people to a new provider; and, prior to March 17, 2019, take action to eliminate the setting from the program.
- F. The following are the relevant sections of the HCBS Settings Rule:
 - 1. The setting ensures a person's rights of privacy, dignity, respect and freedom from coercion and restraint.
 - 2. The setting optimizes a person's initiative, autonomy, and independence in making life choices.
 - 3. The setting facilitates individual choice regarding services and supports, and who provides them.
 - 4. The setting provides opportunities to seek employment and work in competitive integrated settings, engage in community life, and control personal resources.
 - 5. The setting is integrated and supports access to the greater community.
 - 6. The setting provides opportunities to engage in community life.
 - 7. The setting provides opportunities to receive services in the community to the same degree of access as individuals not receiving Medicaid HCBS.
 - 8. If provider-owned or controlled, the setting provides people with the freedom and support to control their schedules and activities and have access to food any time.
 - 9. If provider-owned or controlled, the setting allows people to have visitors at any time.
- G. All of the PCR tools, which include the PCR indicators, can be found on-line at: <https://dds.dc.gov/page/pcr-tools>.



- H. Per the terms of the STP, DDS QAPMA shall use findings from the PCR year beginning on May 1, 2017 through April 30, 2018 to make heightened scrutiny determinations.
- I. Prior to submitting a facility-based Day Habilitation or Employment Readiness settings setting to CMS for heightened scrutiny review, DDS SOPPI shall work with the Department of Health Care Finance (DHCF) to solicit public input by posting at least two notices for comment and offering at least a 30-day public comment period.
- J. DDS SOPPI shall work with DHCF to submit to CMS for heightened scrutiny review facility-based Day Habilitation or Employment Readiness settings which:
 - 1. at their annual PCR fail two of more of the designated HCBS Settings indicators (listed above); and
 - 2. successfully complete their Corrective Action Plan, remediating any identified deficiencies.
- K. DDS Service Coordination and Planning Division will ensure reasonable notice and due process, including providing at least ninety days advance notice to all people needing to transition between settings. All transitions will occur in accordance with the DDA Transitions Policy and Procedure.