



GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT ON DISABILITY SERVICES

DDS TRANSMITTAL #18-2

TO: All Home and Community Based Services for People with Intellectual Disabilities Waiver Providers

FROM: Erin Leveton, State Office of Policy, Planning & Innovation

DATE: May 25, 2018

RE: Home and Community Based Services Waiver for People with Intellectual Disabilities Day Setting Heightened Scrutiny Review Procedure No. 2018-DDS-PR-02, Effective Immediately

On October 6, 2017, the Centers for Medicare and Medicaid Services (CMS) granted final approved to the District of Columbia's Statewide Transition Plan (STP) for Home and Community Based Services (HCBS). The STP is the District's plan to bring all of our HCBS settings into compliance with the federal HCBS Settings Rule no later than March 17, 2019.

The HCBS Settings Rule says that a setting is presumed to have the qualities of an institution if it tends to isolate people receiving Medicaid HCBS from the broader community of people not receiving Medicaid HCBS. If a state wants to assert that a setting presumed to have institutional qualities is in fact a community setting, the state may submit evidence to CMS through a process called heightened scrutiny. To succeed in making its case, the state's evidence must show that the setting does two things: it provides community integration for people with disabilities and it does not have institutional qualities. CMS will make the determination. If CMS agrees that the setting supports community integration and is not institutional in nature, the state can continue to use HCBS funds to support people in that particular setting. If CMS disagrees, the state must remove the setting from the state's HCBS program.

The DC STP describes the methodology that the Department on Disability Services (DDS) uses to determine whether HCBS facility-based Day Habilitation and Employment Readiness settings are presumed to have the qualities of an institution, and thus must be submitted to CMS for heightened scrutiny review or terminated from DC's HCBS program. That methodology, along with DDS' process for submitting a provider to CMS for review is described in the attached procedure, Home and Community Based Services Waiver for People with Intellectual Disabilities Day Setting Heightened Scrutiny Review Procedure No. 2018-DDS-PR-02.

DDS completed its review of all HCBS facility-based day services for people with intellectual disabilities and found four settings presumed to have the qualities of an institution. DDS has worked closely with each of these providers to remediate any associated deficiencies and bring the providers into compliance with HCBS Settings Rule requirements. DC plans to submit all four providers to CMS for heightened scrutiny review, consistent with the DC STP and the attached procedure.

