



Public Comments

Illinois Department of Human Services' Division of Developmental Disabilities (IDHS-DDD) Heightened Scrutiny Locations

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Executive Summary

On October 28, 2022, the State presented compliance information regarding Illinois Department of Human Services' Division of Developmental Disabilities (IDHS-DDD) Heightened Scrutiny locations for 30-day public comment. A weblink for the Public Notice can be located at:

<https://www.illinois.gov/hfs/info/legal/PublicNotices/Pages/default.aspx>. IDHS-DDD shared reminders regarding the public comment period to providers and stakeholders by way of their Communications page <https://www.dhs.state.il.us/page.aspx?item=78358> and Communications listserv (DHS.DDDComments@illinois.gov). All comments received were submitted by way of e-mail submissions to HFS.SWTransitionPlan@illinois.gov.

The State identified a total of 28 comments, all from parents and family members of individuals receiving Home and Community-Based Services (HCBS) at Misericordia Heart of Mercy's Community Day Service (CDS) setting located at 1600 N. Ridge Avenue in Chicago. This document includes the State's response to the comments.

Misericordia Heart of Mercy Community Day Service (CDS)
1600 N. Ridge Ave., Chicago

Total Comments	Commenters
28	Parents, Family Members
Summary of Comments	
<ul style="list-style-type: none"> • Misericordia’s 1600 N. Ridge Ave. CDS is not isolating because: <ul style="list-style-type: none"> ○ Customers participate in on-campus work and activities that involve members of the community ○ Customers participate in off-campus work and activities in the greater community ○ Misericordia offers customers options to choose from when selecting employment, recreational, and training opportunities • Illinois Department of Human Services’ Division of Developmental Disabilities (IDHS-DDD) did not engage customers or family members for input when identifying which IDHS-DDD HCBS provider settings require the application of Heightened Scrutiny • IDHS-DDD applied Heightened Scrutiny to Misericordia’s 1600 N. Ridge Ave. CDS location because it is on a campus setting, but the Federal HCBS Settings rule does not explicitly state that an HCBS setting is subject to the application of Heightened Scrutiny due to being located on a campus setting • IDHS-DDD’s presumption based on the location is directly contrary to Federal Centers for Medicare and Medicaid’s (CMS) 2019 guidance which makes it clear that a setting should not be presumed to be isolating based solely on its location • The State should remove Misericordia’s CDS from their Heightened Scrutiny list 	
State Response	
<p>IDHS-DDD identified HCBS provider settings for the application of Heightened Scrutiny through several methods:</p> <ul style="list-style-type: none"> • A 2020 provider self-survey to identify IDHS-DDD HCBS settings with institutional or isolating characteristics • A December 2021 pre-validation provider self-survey Pre-Validation provider self-survey to identify isolating characteristics https://www.dhs.state.il.us/page.aspx?module=17&item=138633&surveyid=1598 • Direct outreach to IDHS-DDD provider agencies • Consultation with IDHS-DDD Quality Assurance staff • A November 2021 self-advocate survey to gauge customer experience in their communities https://www.dhs.state.il.us/page.aspx?module=17&item=138380&surveyid=1595 • Interviews with customers during Public Consulting Group’s (PCG) on-site validation assessments of IDHS-DDD Heightened Scrutiny locations <p>It was through the above methods, including self-reporting by provider agencies, that IDHS-DDD identified Misericordia’s 1600 N. Ridge Ave. CDS location as meeting isolating characteristics necessary for the application of Heightened Scrutiny review. IDHS-DDD did engage customers of Misericordia’s 1600 N. Ridge Ave. CDS location through their self-advocate survey and the on-site Heightened Scrutiny visits conducted by PCG.</p>	

Many e-mail submissions regarding Misericordia's 1600 N. Ridge Ave. CDS location reference a 2019 CMS Letter to State Medicaid Directors <https://www.medicaid.gov/federal-policy-guidance/downloads/smd19001.pdf>. Please note that the 2019 letter allows states to identify characteristics of isolation in addition to the characteristics identified by CMS. Interested parties may view IDHS-DDD's additional characteristics by accessing their December 2021 Pre-Validation Survey <https://www.dhs.state.il.us/page.aspx?module=17&item=138633&surveyid=1598>. In responding to this survey, Misericordia reported that their CDS setting at 1600 N. Ridge Ave. is located near an Intermediate Care Facility (ICF) for the Developmentally Disabled, part of a cluster of sites, and serving both CILA and ICF residents (Misericordia has since split the two programs). IDHS-DDD identified those additional characteristics through technical assistance from CMS contractor, New Editions, as well as meetings with other states who received Final Statewide Transition Plan (STP) approval. The State also referenced CMS' publications, "Additional technical guidance on regulatory language regarding settings that isolate" <https://www.medicaid.gov/medicaid/hcbs/downloads/settings-that-isolate.pdf> and "Questions and Answers Regarding Home and Community-Based Settings" <https://www.medicaid.gov/medicaid/hcbs/downloads/q-and-a-hcb-settings.pdf>.

Regarding requests to remove Misericordia's 1600 N. Ridge Ave. CDS location from the State's Heightened Scrutiny list, CMS requires states to present all settings identified as isolating from the greater community for public comment if states had not determined those settings to be fully compliant with Federal HCBS Settings requirements by July 1, 2021. Individuals interested in reviewing CMS' July 14, 2020, Letter to State Medicaid Directors can access it at: <https://www.medicaid.gov/Federal-Policy-Guidance/Downloads/smd20003.pdf>. As noted in the State's presentation of IDHS-DDD CDS Heightened Scrutiny compliance information <https://www2.illinois.gov/hfs/SiteCollectionDocuments/NonResidentialCommunityDayServiceCDSSettings.pdf>, Misericordia's 1600 N. Ridge Ave. CDS location received a Compliance Action Plan (CAP), requiring the site to implement remediation for one or more non-compliance concerns observed by the State.

In both its Final STP and presentation of IDHS-DDD Heightened Scrutiny compliance information, the State asserts that all IDHS-DDD provider settings, including Misericordia's 1600 N. Ridge Ave. CDS location, will come into full compliance with Federal HCBS Settings requirements prior to March 17, 2023. The State's including a setting on the Heightened Scrutiny list is the State's declaration that it believes the setting to be community-based, and that it will present evidence to make that case to CMS.