



**Office for People With
Developmental Disabilities**

HCBS Settings Updates and Heightened Scrutiny

**Provider Association Meeting
September 18, 2017**

Status of Federal Action

- 36 Initial Transition Plans approved by CMS:
- 4 Final Transition Plans approved by CMS:
 - Arkansas
 - Kentucky
 - Oklahoma
 - Tennessee
- CMS is requiring quarterly milestone/timeline reporting for each state once the state's Initial Transition Plan is approved
- Revised CMS HCBS Settings Compliance Date is March 17, 2022.

NYS Transition Plan Status Recap

January 2017—NYS Transition Plan Version 2 Submitted to CMS

March 2017—CMS Letter to NYS Requesting additional info/detail

May 9, 2017—CMS extends compliance deadline until March 17, 2022

Version 3 Resubmission to CMS is TBD—under Governor's Office review. No additional public input anticipated at this time.

OPWDD's Version 3 Portion of the STP = No Significant Changes from Version 2

OPWDD Adoption of HCBS Settings Regulations

- Timelines extended in STP to October 1, 2021 implementation date.
- OPWDD expects regulations to be revised sooner than this date.

OPWDD Full Compliance Date

- We are asking providers to continue to work towards full compliance with the HCBS Settings rules as soon as possible. DQI reviews continue to incorporate review of HCBS settings standards with full compliance expected no later than 10/1/2021.

Revised Heightened Scrutiny Estimates

- Now estimated at 319 settings
- This number does not include 14 person and under ICFs that have not yet converted to a Waiver setting.

Heightened Scrutiny Criteria

Locational

On grounds of a public institution

Adjacent to a public institution

Located in a building that is also publically or privately operated facility providing inpatient institutional treatment

Converted ICFs

Converted from an ICF on or after March 17, 2014

Institutional/ Isolating and Presumed Not to be HCBS

Multiple Settings co-located and operationally related
Includes private campus settings

The setting/site's **design, appearance, and/or location appears to be institutional and/or isolating:**



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From OPWDD October 2015 Provider Memo

5. The setting/site is part of a group of multiple settings co-located and operationally related such that the co-location and/or cluster appears to isolate and/or inhibit interaction with the broader community, including any of the following:

- 5a. Setting/Site is situated on a **PRIVATE CAMPUS** where there are multiple group homes and/or facilities for people with intellectual and/or developmental disabilities (I/DD) on the same property (**NOTE: Private campus settings will automatically trigger heightened scrutiny**); and/or
- 5b. Setting is co-located with multiple settings for people with intellectual and/or developmental disabilities (I/DD) that are operationally related such that **the co-location may isolate people with disabilities and/or inhibit individuals from interacting with the broader community.**



What DQI Reviews to Determine Whether a Setting that is subject to Heightened Scrutiny

When the setting is co-located/clustered and operationally related:

- Key element of concern is whether co-located or clustered sites have the effect of isolating/segregating people with disabilities/people receiving Medicaid HCBS from the broader community.
- DQI looks at a variety of factors: whether there are other homes/businesses organizations around such that people with I/DD would be likely to run into/interact with people other than paid staff and other people with disabilities (residential); and whether people are spending the majority of program time with paid staff and others with I/DD only (non-residential).
- See DQI survey guidance for further information.

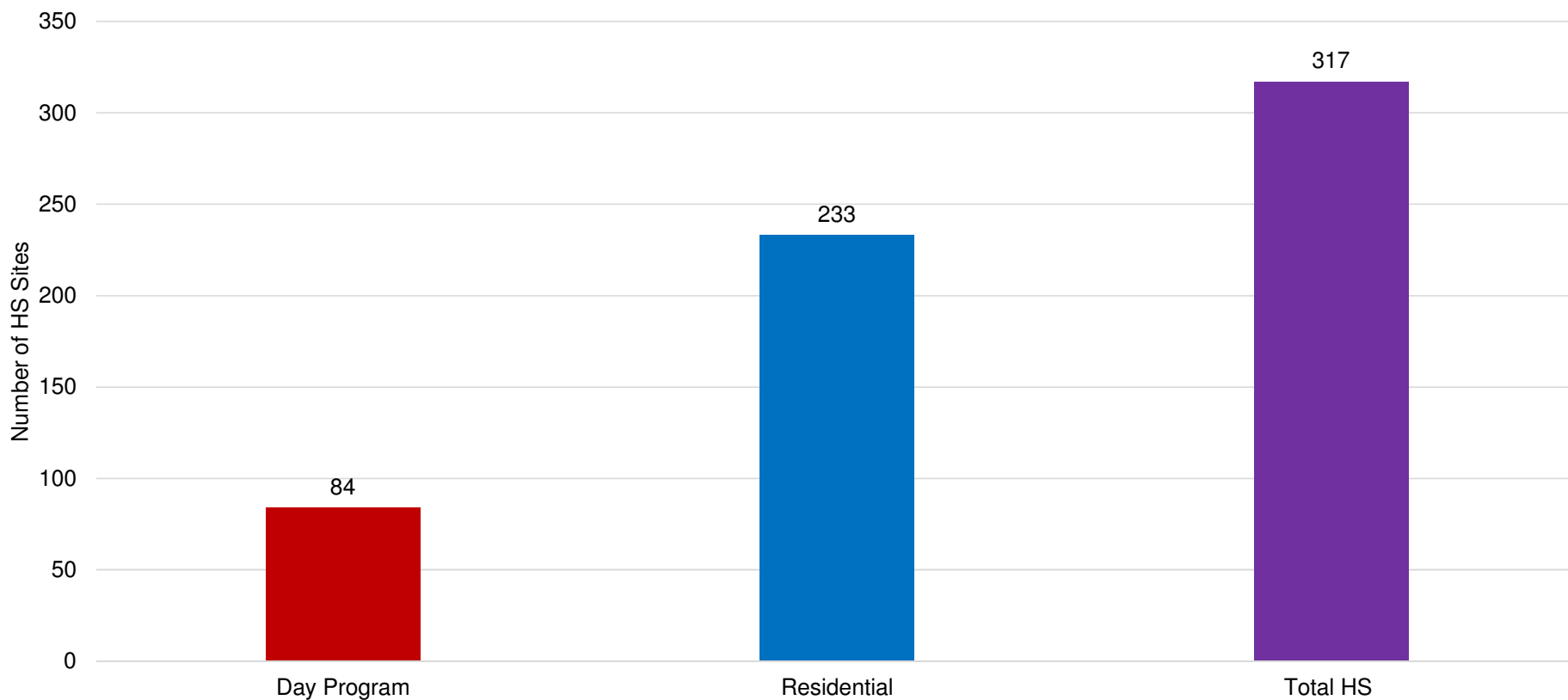
How Does a Provider Know if a Setting is Subject to H.S?

- **If the setting was identified by DQI as subject to HS via Exit Conference Form and/or the agency Director was notified by DQI.**
- **Or the provider self-identifies a site as HS by meeting one or more criteria for HS through the Evidence Package Process or other mechanism.**
- **Sites identified as meeting one or more HS criteria by DQI or self-identified will be reconciled by OPWDD and subject to the Statewide HS Process.**

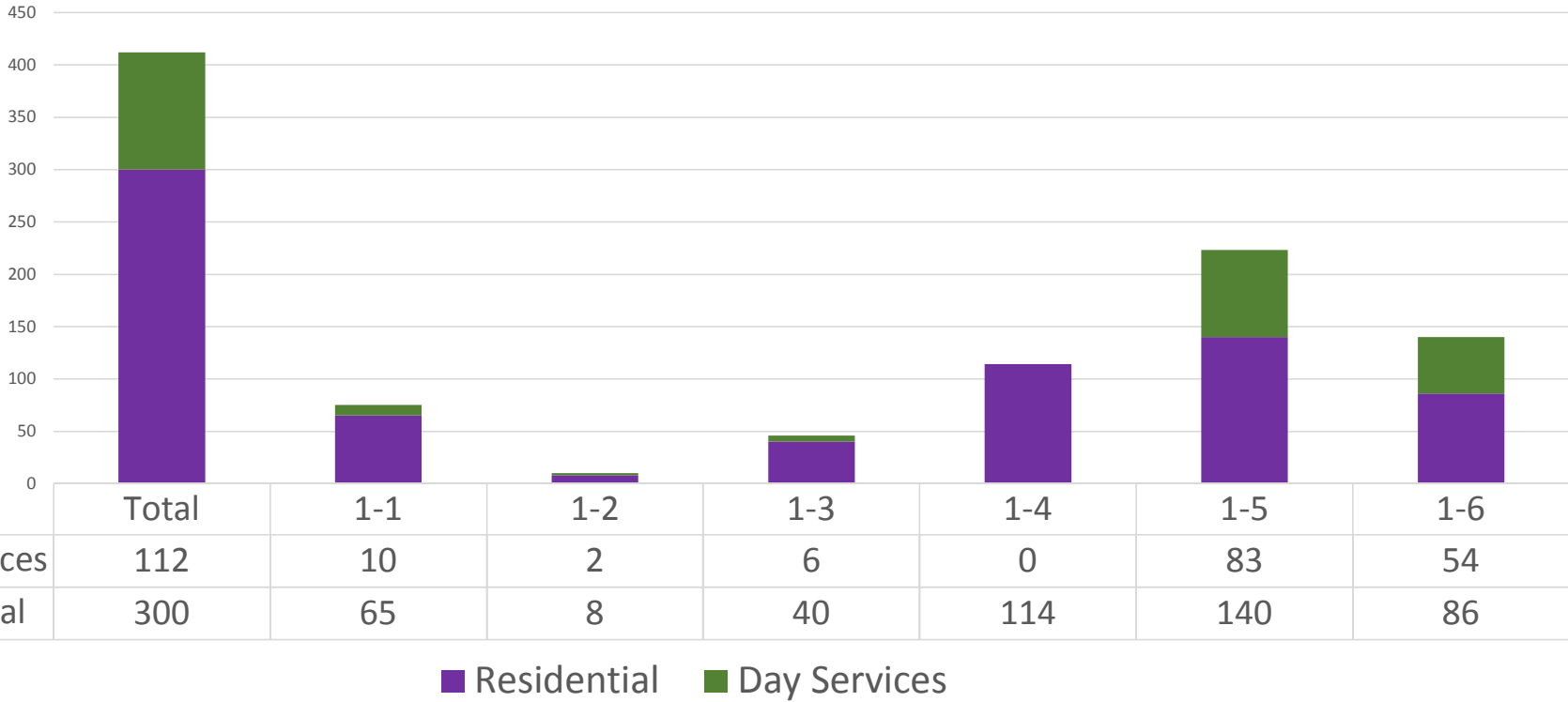
Note: OPWDD implemented its heightened scrutiny evidence package process, however, due to the CMS extension and NYS's work on a Statewide process, OPWDD has temporarily suspended review/work on the evidence packages received. DQI continues to review HCBS Settings standards in all of its site reviews.

Number of Sites Subject to HS from DQI Reviews

■ Day Program ■ Residential ■ Total HS



OPWDD – Total Heightened Scrutiny Sites Identified by DQI or the Provider (Through Self-Identification)



1-1 = On the grounds of a public institution
 1-2 = In an inpatient building/grounds of
 1-3 = Adjacent to a public institution

1-4 = Converted from an ICF
 1-5 = Co-located/clustering
 1-6 = Institutional/Isolating other factors

Heightened Scrutiny Informational Resources

- CMS Home and Community-based Setting Requirements
June 26, 2015 Q and A
- CMS “Guidance on Settings that Have the Effect of Isolating Individuals Receiving HCBS From the Broader Community”
- OPWDD October 2015 Provider Memo on Heightened Scrutiny
- DQI Survey Tools
- www.HCBSAdvocacy.org

Remember the HCBS Settings Toolkit!

www.opwdd.ny.gov

Search “HCBS Settings Toolkit”

All resources are present on the Toolkit

Questions on HCBS Settings Heightened Scrutiny Designations

- Quality@opwdd.ny.gov for DQI site review and heightened scrutiny designations and notifications