



## Settings That Are Presumed to Have the Qualities of An Institution

For 1915(c) home and community-based waivers, section 441.301(c)(5)(v) specifies that the following settings are presumed to have the qualities of an institution:

- any setting that is located in a building that is also a publicly or privately-operated facility that provides inpatient institutional treatment,
- any setting that is located in a building on the grounds of, or immediately adjacent to, a public institution, or
- any other setting that has the effect of isolating individuals receiving Medicaid HCBS from the broader community of individuals not receiving Medicaid HCBS. For 1915(i) State plan home and community-based services, section 441.710(a)(2)(v) specifies that the following settings are presumed to have the qualities of an institution:
  - any setting that is located in a building that is also a publicly or privately-operated facility that provides inpatient institutional treatment,
  - any setting that is located in a building on the grounds of, or immediately adjacent to, a public institution, or
  - any other setting that has the effect of isolating individuals receiving Medicaid HCBS from the broader community of individuals not receiving Medicaid HCBS.
- A hospital; or
- Any other locations that have qualities of an institutional setting, as determined by the Secretary

