

Kentucky Department for Medicaid Services

Acquired Brain Injury Waiver Renewal

Official Response to Formal Public Comment from December 6, 2021 – January 9, 2022

Between December 6, 2021, and January 9, 2022, the Department for Medicaid Services (DMS) received formal public comments regarding the renewal of Kentucky’s Acquired Brain Injury (ABI) waiver. ABI is a 1915(c) Home and Community Based Services (HCBS) waiver that provides services to individuals who are aged 18 and older and have an acquired brain injury.

To continue offering ABI services, DMS must renew the waiver with the Centers for Medicare and Medicaid Services (CMS). DMS held the formal public comment period to allow stakeholders to provide feedback on updates proposed in the ABI renewal application. DMS received 150 comments regarding the ABI renewal. 60% of those comments were related to Occupational Therapy (OT) and Speech Therapy (ST). Due to the volume, DMS opted to respond to the majority of OT and ST-related comments in a separate letter. The letter is available at <https://bit.ly/kyABIpcOTST>. This document provides the DMS response to all other stakeholder comments submitted during the formal public comment period.

Below you will find a few definitions to help you understand the DMS Response. If you have questions about this response, please email MedicaidPublicComment@ky.gov.

Reference #	Commenter Type	Comment	DMS Response	Change to the Waiver
DMS assigned a number to each set of comments to help us track them.	This section identifies the type of stakeholder(s) who made the comments (providers, caregivers, etc.)	This is where you will find the public comments. DMS grouped and summarized comments.	This is where you will find the DMS response to each set of comments.	This section lists any changes DMS made to the amended ABI application based on the comments received.

Reference #	Commenter Type	Comment	DMS Response	Change to the Waiver
Covered Services				
CS1	Provider	<p>Companion Definition</p> <p>Commenter requests expanding Companion to allow providers to assist participants during medical appointments.</p> <p>"Participants often need assistance during medical appointments with remembering information, communicating medical needs and understanding instructions."</p>	<p>After reviewing the ABI Kentucky Administrative Regulation (KAR) 907 KAR 3:090, DMS will allow Companion to include supervision during medical appointments if the participant requires it. A participant's need for supervision during medical appointments should be outlined in the goals and objectives in the person-centered service plan (PCSP).</p>	<p>DMS will edit the definition of Companion in the waiver application to clarify that it can include supervision during medical appointments based on the participant's needs as outlined in the PCSP.</p>
CS7	Provider	<p>Name of Support Broker Service</p> <p>Commenter suggests that Support Broker services should be renamed Participant Directed Services Case Manager or PDS CM.</p>	<p>Thank you for the suggestion.</p> <p>Changing a service name requires amending the ABI KAR. DMS is not amending 907 KAR 3:090 for this renewal. Kentucky's full 1915(c) HCBS waiver service menu will be reviewed as part of the state's Enhanced FMAP Spending Plan. Any updates to services, including name changes, will be completed through a future KAR change accompanied by a waiver amendment. The public will have an opportunity to review and comment on future KAR and waiver amendments.</p>	

Reference #	Commenter Type	Comment	DMS Response	Change to the Waiver
CS8	Provider	<p>Assessment/Reassessment Definition</p> <p>Commenter requests changing the language in the assessment/reassessment service definition from "The assessment must be conducted by an ABI waiver case manager and must include at least one contact with the participant and, if appropriate, his family, in the participant's home" to "The assessment must be conducted by an ABI waiver case manager and must include at least one contact with the participant, their family, and/or other medical professional."</p> <p>Commenter suggests allowing the assessment/reassessment to be conducted virtually/remotely or at any location where the participant is.</p>	<p>DMS will continue to require in-home assessments to evaluate the participant's health, safety, and welfare in their home or living environment, however, this can be conducted without the participant present. The in-home assessment is important to evaluate what risks the participant may face in their residence and whether those risks can be mitigated with waiver services, Kentucky's state Medicaid plan services, or other community resources. If a participant is transitioning from a facility, the functional assessment may be conducted before the participant moves to their community-based setting if doing so is required to support the transition.</p>	
CS9	Provider	<p>Assessment/Reassessment – Attendance</p> <p>Commenter requests family members and/or in-patient facility nurses or social workers be allowed to attend the assessment/reassessment to support participants who need assistance to communicate.</p>	<p>The participant must be present for the assessment or reassessment. The participant can choose to have other individuals attend as well.</p>	

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Reference #	Commenter Type	Comment	DMS Response	Change to the Waiver
CS11	Provider	<p>Residential Services – Provider Types</p> <p>Commenters requested the addition of Family Home Providers as a provider type for ABI residential services</p>	<p>Thank you for the suggestion.</p> <p>Adding a provider type requires amending the ABI KAR. DMS is not amending the 907 KAR 3:090 for this renewal. Kentucky’s full 1915(c) HCBS waiver service menu and provider types will be reviewed as part of the state’s Enhanced FMAP Spending Plan. Any updates to provider types will be completed through a future KAR change accompanied by a waiver amendment. The public will have an opportunity to review and comment on future KAR and waiver amendments.</p>	
CS17	Provider	<p>Residential Services – Bed Capacity</p> <p>Commenter requests an increase in capacity of ABI waiver residential services from three beds per residence to six beds per residence.</p> <p>"Doing so will expand access to small staffed residences and create efficiencies with limited labor resources without compromising quality for the people we serve"</p>	<p>Thank you for the suggestion.</p> <p>Changing service specifications requires amending the ABI KAR. DMS is not amending the 907 KAR 3:090 for this renewal. Kentucky’s full 1915(c) HCBS waiver service menu will be reviewed as part of the state’s Enhanced FMAP Spending Plan. Any updates to service specifications will be completed through a future KAR change accompanied by a waiver amendment. The public will have an opportunity to review and comment on future KAR and waiver amendments.</p>	

Reference #	Commenter Type	Comment	DMS Response	Change to the Waiver
CS19	Advocate	<p>Waiver Services and Hospital Settings</p> <p>Commenter appreciated the addition of language in the ABI waiver allowing waiver services to be provided in acute hospital settings when the hospital cannot meet the participant’s health, safety, and welfare needs.</p> <p>Commenter had the following question: "Please confirm that communication and behavior needs are not an exhaustive list and that the following comment by DMS from the HCB (Home and Community Based waiver) renewal process regarding needed waiver services in hospital settings also applies to the ABI renewal: 'DMS thanks you for your feedback. This policy update includes all waiver services a participant may need during their hospital stay. When participants and/or their caregivers encounter this situation, they or their case manager/PDS Care Coordinator should contact DMS for further guidance.'"</p>	<p>Thank you for your feedback. The response DMS gave to questions about this policy during the Home and Community Based (HCB) waiver renewal process applies to ABI as well.</p> <p>It is important to note that waiver services provided in an acute hospital setting must:</p> <ul style="list-style-type: none"> • Be needed to meet emergent, non-medical needs or risks when there is not a family member or natural support available to assist. • Not duplicate services the hospital is required to provide, such as bathing or feeding. • This policy is not intended for continuing the participant’s full person-centered service plan while they are hospitalized. <p>When participants and/or their caregivers encounter a situation where receiving waiver services in an acute hospital may be appropriate, they or their case manager/support broker should contact DMS for further guidance.</p>	

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Reference #	Commenter Type	Comment	DMS Response	Change to the Waiver
CS20	Advocate	<p>Home Delivered Meals</p> <p>Commenter asked if hot, frozen, or chilled meals would be added to the ABI waiver application. The service is currently available to ABI participants through Appendix K due to the COVID-19 pandemic. The commenter noted the 1915(c) Waiver Redesign Task Force recommended all Appendix K amendments should be made permanent.</p>	<p>Thank you for your suggestion, however, no services are being added to this ABI waiver renewal.</p> <p>DMS cannot permanently add services to any 1915(c) HCBS waiver until a comprehensive rate study of the reasonable and necessary costs of providing is completed. DMS plans to conduct a rate study and a review of Kentucky's full 1915(c) HCBS service menu for potential updates as part of the state's Enhanced FMAP spending plan. Any service additions will be made through future waiver and KAR amendments. The public will have an opportunity to review and comment on any service menu adjustments before they are finalized. ABI participants can continue to receive Home Delivered Meals under Kentucky's COVID-19 Appendix K amendment, which will remain in effect up to six months after the federal public health emergency is declared over.</p>	

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Reference #	Commenter Type	Comment	DMS Response	Change to the Waiver
CS26	Provider	<p>Telehealth Services</p> <p>Commenter requests that the waiver continue to allow telehealth services.</p>	<p>Thank you for your feedback.</p> <p>While waiver services are community-based, DMS recognizes allowing participants to interact with health care professionals and providers via telehealth can be both beneficial and person-centered. Kentucky's Enhanced FMAP spending plan includes an initiative to incorporate telehealth permanently into the waivers. Any telehealth policy updates will be made through future waiver and KAR amendments. The public will have an opportunity to review and comment on any telehealth policies before they are finalized. ABI participants can continue to receive telehealth services under Kentucky's COVID-19 Appendix K amendment, which will remain in effect up to six months after the federal public health emergency is declared over.</p>	

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Reference #	Commenter Type	Comment	DMS Response	Change to the Waiver
CS27	Provider	<p>Waiver Speech and Occupational Therapy – Limits</p> <p>Commenter recommends limits on ST and OT to curb overuse.</p> <p>"I have clients... who have been getting SLP/OT/PT for over 5 years with no discharge planning."</p>	<p>Thank you for the suggestion.</p> <p>Changing a service limit requires amending the ABI KAR. DMS is not amending 907 KAR 3:090 for this renewal. Kentucky's full 1915(c) HCBS waiver service menu, including service limits, will be reviewed as part of the state's Enhanced Federal Medical Assistance Percentage (FMAP) Spending Plan. Any updates to service limits will be completed through a future KAR change accompanied by a waiver amendment. The public will have an opportunity to review and comment on future KAR and waiver amendments.</p>	

Reference #	Commenter Type	Comment	DMS Response	Change to the Waiver
Eligibility and Enrollment				
EE1	Provider	<p>ABI Application Process</p> <p>Commenter says the process of getting ABI services is confusing and has too many barriers.</p>	<p>Thank you for sharing your experience. DMS is reviewing the 1915(c) HCBS waiver application process as part of the Enhanced FMAP spending plan to identify areas where it can be improved.</p> <p>Individuals who have questions about the application process can contact the 1915(c) Waiver Help Desk at (844) 784-5614 or 1915cWaiverHelpDesk@ky.gov</p>	
EE2	Provider	<p>ABI Participant Eligibility</p> <p>Commenter says individuals with a history of drug or alcohol abuse should not be excluded from the waiver.</p>	<p>The ABI waiver is targeted for the treatment and care of individuals with a traumatic or acquired brain injury. The waiver is not intended for addiction recovery. Individuals with a history of drug or alcohol abuse are not excluded from the waiver if they have an acquired brain injury and meet the eligibility criteria in 907 KAR 3:090, Section 3.(a).</p>	

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Reference #	Commenter Type	Comment	DMS Response	Change to the Waiver
EE3	Advocate	<p>Patient Liability</p> <p>Commenter appreciated the increase in financial eligibility from 100% of the Federal Poverty Level (FPL) to 300% of the FPL, which reduces or eliminates patient liability payments for most waiver participants.</p>	Thank you for your feedback.	

Reference #	Commenter Type	Comment	DMS Response	Change to the Waiver
EE4	Provider	<p>Termination of Participant Enrollment</p> <p>Commenter requests that the updated ABI waiver application and ABI KAR include a protocol for immediate removal of participants who meet the following criteria listed in Appendix B of the ABI renewal application "Individuals who exhibit aggressive behavior that poses an imminent threat of serious injury or loss of life to staff, co-participants, and/or members of the community may not be served through the ABI waiver."</p> <p>Commenter states "The lack of crisis stabilization services has long been identified as a critical barrier to effective services and to ensuring the health, safety, and welfare of participants, staff, and members of the community. This exclusion is meaningless in the absence of crisis stabilization services or another protocol to immediately remove dangerous participants from waiver services."</p>	<p>Providers have the option to terminate services provided to an ABI participant using the process outlined in 907 KAR 3:090, Section 3. When providers encounter a situation where participant termination is warranted, they can contact DMS for guidance and support.</p> <p>DMS recognizes the need for additional support through crisis stabilization services. To address this need, DMS has included several initiatives in Kentucky's Enhanced FMAP spending plan designed to explore and implement crisis services.</p>	

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Reference #	Commenter Type	Comment	DMS Response	Change to the Waiver
EE5	Provider	<p>Length of Stay – ABI Acute</p> <p>Commenter recommends limiting the length of time a participant receives ABI acute services. Commenter suggests participants could remain on the ABI Acute waiver for two to three years before transitioning off of or on to another waiver. Commenter offered an alternative suggestion of having participants who have been on the ABI Acute waiver for one to two years adhere to the services and limits of the ABI Long Term Care waiver.</p>	<p>Thank you for your feedback. DMS will consider this suggestion as we move forward with a review of the 1915(c) HCBS waiver service menu as part of the Enhanced FMAP spending plan. Any updates to the ABI waiver as a result of this review will be made through future waiver and KAR amendments. The public will have an opportunity to review and comment on any updates before they are finalized.</p>	

Reference #	Commenter Type	Comment	DMS Response	Change to the Waiver
Case Management				
CM1	Provider	<p>Case Manager Qualifications</p> <p>Several commenters requested an expansion of the qualifications for case managers to include individuals with a degree in any field, plus one year of experience.</p> <p>One commenter also requested the qualifications for case managers include LPNs with one year of experience.</p> <p>Commenters say these changes would help ease hiring challenges.</p>	<p>Per the ABI renewal application and the ABI KAR, LPNs can be ABI case managers.</p> <p>Expanding case manager qualifications requires amending the ABI KAR. DMS is not amending 907 KAR 3:090 for this renewal. Any updates to case manager qualifications will be completed through a future KAR change accompanied by a waiver amendment. The public will have an opportunity to review and comment on future KAR and waiver amendments.</p> <p>Providers with questions about the requirement for an individual to have a degree in a human services field can contact the 1915(c) Waiver Help Desk at (844) 784-5614 or 1915cWaiverHelpDesk@ky.gov for guidance.</p>	

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Reference #	Commenter Type	Comment	DMS Response	Change to the Waiver
CM2	Provider	<p>Residential Services – Goals</p> <p>Commenters requested the removal of goal requirements for residential services.</p> <p>"Residential goals might be appropriate for some participants, but not all, and do not allow participants to simply “live” when they are in their homes."</p>	<p>The goal of the ABI waiver is to help participants rebuild their lives to the highest level of functioning possible. Goals and objectives can focus on regaining independent living skills or re-integrating into activities and/or areas of interest the participant had before their brain injury. DMS encourages providers to assess each individual’s goals, desired outcomes, and interests to help them set person-centered goals.</p>	

<p>CM3</p>	<p>Provider</p>	<p>Monthly Visits – Virtual Options</p> <p>Commenter requested that case managers/support brokers be allowed to conduct up to two monthly visits per quarter virtually.</p> <p>"COVID-19 has taught us that virtual face to face visits are a great tool to add to the case manager's toolbox."</p>	<p>To protect the health, safety, and welfare of the waiver participant, DMS will not change current case management visit frequency requirements as outlined in 907 KAR 3:090. DMS will evaluate whether telehealth visits qualify as "face-to-face." Any updates to the case management visit policy will be made through future waiver and KAR amendments. The public will have an opportunity to review and comment on any updates before they are finalized.</p> <p>DMS acknowledges face-to-face visits can increase the risk to participants and case managers/support brokers during the ongoing COVID-19 pandemic. DMS has made temporary changes to the ABI waiver through Appendix K of the 1915(c) HCBS waiver application to allow case managers and support brokers to conduct all visits via phone or using remote options (such as FaceTime, Skype, etc.), so long as the method used allows for direct interaction between the waiver participant and the case manager (email or leaving a message is not considered interactive). This temporary policy update will remain until the end of Kentucky's COVID-19 Appendix K amendment, which will remain in effect up to six months after the federal public health emergency is declared over.</p>	<p>In the proposed ABI waiver application, D-2-a. read "The CM/support broker shall conduct face-to-face visits with the participant monthly, with at least one visit at the participant's current place of residence every three (3) months." This is incorrect as DMS is not changing the current requirements regarding the frequency of case management visits. DMS will update the waiver application to read "The CM/support broker shall conduct two face-to-face visits with a participant at a covered site within a calendar month with one (1) visit quarterly at the participant's residence. For participants receiving supervised residential care, the CM/support broker shall conduct at least one (1) of the two (2) monthly visits at the participant's supervised residential care provider site."</p>
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Reference #	Commenter Type	Comment	DMS Response	Change to the Waiver
CM4	Provider	<p>Monthly Visits – Attendees</p> <p>Commenters requested that the case manager/support broker's monthly visit not be required to include the participant's legal guardian because the requirement is burdensome and not person-centered.</p> <p>Commenter proposes the waiver application be updated to say "The visit must include input from the participant, and, if needed, the participant's legal guardian, authorized representative, or PDS representative, if applicable."</p>	<p>DMS agrees the monthly visit should be person-centered and include individuals of the participant's choosing. The participant is not required to have their legal guardian present during the monthly visit.</p>	<p>DMS will update language regarding the monthly visit in D-2-a. to clarify who can be included. The updated language will read "The visit must include input from the participant and may include input from others such as the participant's providers, legal guardian, authorized representative, or PDS representative, if applicable, or natural supports."</p>
CM5	Provider	<p>Participant Goals</p> <p>Commenter says participants should not be required to have goals for the home setting.</p> <p>"Continual goal related work is excessive and unfair to the participant."</p>	<p>Goals and objectives are necessary to guide and identify a participant's progress in regaining life skills and re-integrating into the activities and interests they had before their brain injury.</p>	

Reference #	Commenter Type	Comment	DMS Response	Change to the Waiver
CM6	Provider	<p>Conflict Free Case Management</p> <p>Commenter requests additional exceptions to the Conflict Free Case Management requirement beyond the lack of available providers in a specific geographic region.</p> <p>"Participants should be able to request exceptions based on participant choice as long as informed choice can be documented. Any restriction of choice of case management providers is in direct violation of the freedom of choice requirement."</p>	<p>DMS does not limit a participant's choice of case managers in situations beyond those related to Conflict Free Case Management as defined by Centers for Medicare and Medicaid Services (CMS) 2014 Federal Final Rule for HCBS. The Federal Final Rule only addresses lack of available providers in a specific geographic region stating "a provider who renders case management to the participant must not also provide another waiver service to that same participant, unless the case manager/support broker is the only willing and qualified provider in the geographical area thirty (30) miles from the participant's residence."</p>	
CM7	Provider	<p>Quarterly Summaries</p> <p>Commenter requested the removal of the quarterly summary requirement for residential services.</p> <p>"It is a burdensome and redundant task that provides no additional information. All relevant information is already captured on the month Contact Note."</p>	<p>Thank you for your comment.</p> <p>The quarterly summary is a requirement of case management per 907 KAR 3:090, which is not being amended for this waiver renewal. Any policy changes regarding the quarterly summary will be made in future KAR amendments and will be accompanied by a waiver amendment. The public will have an opportunity to review and comment on future KAR and waiver amendments.</p>	

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Reference #	Commenter Type	Comment	DMS Response	Change to the Waiver
Participant Directed Services				
PDS1	Advocate	<p>Legally Responsible Individual – Definition</p> <p>Commenter thanks DMS for clarifying who is considered a legally responsible individual for participants receiving PDS.</p>	Thank you for your feedback.	

<p>PDS2</p>	<p>Advocate</p>	<p>Legally Responsible Individual – Requirements</p> <p>Commenter suggests removing the following language from C-2-e. regarding the requirements that legally responsible individuals must meet to provide PDS Companion services</p> <p>"If one or more of the above specific circumstances is met for a family member to provide services, the following conditions and situations must also be met:</p> <ul style="list-style-type: none"> • Family member must have the skills, abilities, and meet provider qualifications to provide the service; Service delivery must be cost effective; • The use of the family member must be age and developmentally appropriate; • The use of the family member as a paid provider must enable the person to learn and adapt to different people and form new relationships; • The participant must be learning skills for increased independence; and • Having a family member as staff: <ul style="list-style-type: none"> ○ Truly reflects the participant's wishes and desires, ○ Increases the participant's quality of 	<p>Upon review of this comment, DMS found Personal Care is not listed in the ABI waiver application, however, it is available to ABI participants through 907 KAR 3:090. DMS will update the waiver application to add Personal Care and make edits to the Companion definition to better align the waiver application with the ABI KAR and make the PDS requirements appropriate for both services.</p>	<p>DMS will add Personal Care to the ABI waiver application to better reflect the services available to participants via 907 KAR 3:090.</p> <p>DMS will edit the definition of Companion to better align it with 907 KAR 3:090.</p>
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		<p>life in measurable ways,</p> <ul style="list-style-type: none"> ○ Increases the participant’s level of independence, ○ Increases the participant’s choices, and ○ Increases access to the amount of service hours for needed supports. <p>The commenter says the language does not align with the definition of Companion.</p> <p>“How does a family member provide the Companion services of bathing, dressing, and grooming while ‘enabl[ing] the person to learn and adapt to different people and form new relationships[?]’</p>		
PDS3	Advocate	<p>PDS Employee – Background Screening Costs</p> <p>Commenter recommends the cost associated with securing PDS employees be part of reimbursement to financial management services agencies or be included in the participant's PDS budget.</p>	As part of Kentucky's Enhanced FMAP spending plan, DMS will temporarily cover the cost of PDS employee background checks while seeking a statewide financial management vendor. The costs of onboarding staff will be included in the rate developed for the eventual vendor.	

<p>PDS4</p>	<p>Provider</p>	<p>Legally Responsible Individuals as PDS Providers</p> <p>Commenter says legally responsible individuals should not be permitted to provide waiver services as PDS employees.</p> <p>"We believe based on anecdotal reports over the years there is considerable waste, fraud, and abuse in the provision of these services. We feel that no matter what controls are put in place to monitor these services for waste, abuse, and fraud, that determined persons will find a way to defraud Medicaid and be paid for inappropriate service provision."</p>	<p>Thank you for sharing your concerns. Over the past few years, DMS has received a high volume of comments from stakeholders about the need to hire legally responsible individuals, including parents, spouses, legal guardians, and legal representatives as PDS employees. DMS plans to allow this practice to continue. DMS is continually evaluating the effectiveness of its policy related to the hiring of legally responsible individuals as PDS employees and may make adjustments as needed in future waiver and KAR amendments.</p> <p>All stakeholders play a role in identifying and reporting Medicaid fraud, waste, and abuse. If you suspect fraud, waste, or abuse of Medicaid funds, please contact the Cabinet for Health and Family Services, Office of the Inspector General, Division of Audits and Investigations by:</p> <ul style="list-style-type: none"> • Phone (800) 372-2970 To leave a message, you can call anytime. To speak with a staff member, please call weekdays between 8 a.m. and 4:30 p.m. Eastern. • Email chfs.fraud@ky.gov • Mail Office of Inspector General Division of Audits and Investigations 	
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<p>PDS5</p>	<p>Provider</p>	<p>Fraud, Waste, and Abuse in PDS</p> <p>Commenter requests re-evaluation and overhaul of the PDS option due to significant fraud, waste, and abuse.</p>	<p>Thank you for sharing your concerns.</p> <p>DMS is continually evaluating the effectiveness of its PDS policies and may make adjustments as needed in future waiver and KAR amendments.</p> <p>All stakeholders play a role in identifying and reporting Medicaid fraud, waste, and abuse. If you suspect fraud, waste, or abuse of Medicaid funds, please contact the Cabinet for Health and Family Services, Office of the Inspector General, Division of Audits and Investigations by:</p> <ul style="list-style-type: none"> • Phone (800) 372-2970 To leave a message, you can call anytime. To speak with a staff member, please call weekdays between 8 a.m. and 4:30 p.m. Eastern. • Email chfs.fraud@ky.gov • Mail Office of Inspector General Division of Audits and Investigations 275 E. Main St., 5E-D Frankfort, KY 40621 <p>A person reporting suspected fraud and abuse is not required to give his/her name. Any information provided is kept confidential.</p>	
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Payment and Rate Setting				
PRS1	Provider	<p>Reimbursement Rates – Increase</p> <p>Commenter noted a rate increase is needed for all waivers due to rising costs of business.</p>	<p>DMS recognizes a rate adjustment is necessary for all 1915(c) HCBS waivers, however, rates are not being changed with this renewal. DMS is conducting a rate study using the Enhanced FMAP funds available to Kentucky through the American Rescue Plan Act (ARPA). Rate adjustments will be made through future waiver and KAR amendments. The public will have an opportunity to review and comment on any rate adjustments before they are finalized.</p>	
PRS2	Provider	<p>Reimbursement Rates – Case Management</p> <p>Commenter requested a rate increase for case management.</p> <p>"Their (case manager's) assistance with finding and accessing the best services for a survivor is priceless and was already worth far more than they were getting reimbursed but further cuts to this reimbursement rate are unconscionable."</p>	<p>DMS recognizes a rate adjustment is necessary for all 1915(c) HCBS waivers, however, rates are not being changed with this renewal. DMS will conduct a rate study using the Enhanced FMAP funds available to Kentucky through the ARPA. Rate adjustments will be made through future waiver and KAR amendments. The public will have an opportunity to review and comment on any rate adjustments before they are finalized.</p>	

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PRS3	Provider	<p>Reimbursement Rates – Adult Day Training</p> <p>Commenter is concerned about rates for ADT proposed in a previous 1915(c) HCBS rate study.</p> <p>"If the ADT rates that have been proposed in the rate study are implemented, the ADT providers will not be able to function. These treatment groups are not daycare's, they are providing a necessary treatment modality for survivors to overcome challenges as a result of their acquired brain injury"</p>	<p>Rates are not being changed with this renewal. DMS will conduct a new rate study using the Enhanced FMAP funds available to Kentucky through the ARPA. Rate adjustments will be made through future waiver and KAR amendments. The public will have an opportunity to review and comment on any rate adjustments before they are finalized.</p>	

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Provider Qualifications and Training				
PQT1	Provider	<p>Provider Types – Counseling</p> <p>Commenter requests expanding Counseling and Group Counseling providers to include Licensed Psychological Practitioners (LPP), Licensed Professional Counselor Associate (LPCA), and a Master's level Certified Social Worker (CSW) under the supervision of a Licensed Clinical Social Worker (LCSW) to help ease staffing issues.</p>	<p>Thank you for the suggestion.</p> <p>Adding a provider type requires amending ABI KAR. DMS is not amending 907 KAR 3:090 for this renewal.</p> <p>Kentucky's full 1915(c) HCBS waiver service menu and provider types will be reviewed as part of the state's Enhanced FMAP Spending Plan. Any updates to provider types will be completed through a future KAR change accompanied by a waiver amendment. The public will have an opportunity to review and comment on future KAR and waiver amendments.</p>	

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PQT2	Provider	<p>Annual Medication Training</p> <p>Commenters say requiring medication training annually is unnecessary, costly, and create additional barriers to hiring staff and requested the waiver be updated with the following language:</p> <p>"Medication training will be required prior to Independent Functioning and retraining will be required as needed."</p> <p>"Education should be occurring much more frequently if there are issues with competency around medication administration. If staff is administering medications frequently without issue the annual retraining has no real value."</p>	<p>DMS does not plan to change this requirement right now. DMS review of incident reports shows a high number of medication errors, which indicates this training is needed.</p>	

Reference #	Commenter Type	Comment	DMS Response	Change to the Waiver
PQT3	Provider	<p>Provider Types – Support Broker</p> <p>Commenter requests the provider types for Support Broker be expanded to include Approved Waiver Providers in addition to CMHCs and ADDs.</p> <p>"This would allow PDS participants to have greater freedom of choice with their PDS CM, produce a higher quality service, and increase effectiveness of person-centered planning."</p>	<p>Thank you for the suggestion.</p> <p>Adding a provider type requires amending the ABI KAR. DMS is not amending 907 KAR 3:090 for this renewal.</p> <p>Kentucky's full 1915(c) HCBS waiver service menu and provider types will be reviewed as part of the state's Enhanced FMAP Spending Plan. Any updates to provider types will be completed through a future KAR change accompanied by a waiver amendment. The public will have an opportunity to review and comment on future KAR and waiver amendments.</p>	
PQT4	Provider	<p>Provider Types – Assessment/Reassessment</p> <p>Commenter noted Support Broker and ADDs are not listed as provider types for the Assessment/Reassessment service.</p>	<p>Thank you for making note of this.</p> <p>The provider types for the Assessment/Reassessment service should be Approved Waiver Providers, CMHCs and ADDs. These are the provider types for Case Management and Support Broker, respectively.</p>	<p>DMS will edit the waiver application to include ADDs as a provider type for Assessment/Reassessment in addition to Approved Waiver Providers and CMHCs.</p>

<p>PQT5</p>	<p>Advocate</p>	<p>Community Guide vs. Support Broker</p> <p>Commenter is concerned the removal of the Community Guide service from the waiver application and the addition of the Support Broker service will reduce available provider options for ABI participants who use Participant-Directed Services because the provider types for Support Broker only include CMHCs and ADDS, whereas Community Guide provider types were Qualified Community Guide and Approved Waiver Providers.</p> <p>"We are concerned that limiting the provider types for support broker services will create a bottleneck for participant directed services. We are aware of current support broker agencies that have wait lists or are not taking new clients."</p>	<p>Community Guide and Support Broker are not the same service. Support Brokers provide case management for individuals who use PDS. Community Guides were intended to assist a participant in fulfilling the responsibilities of a PDS employer. As such, the provider qualifications for each service were different.</p> <p>DMS removed Community Guide from the waiver renewal to better align the waiver application with the ABI KAR and reflect the services truly available for ABI participants. Community Guide is not listed as a service in the ABI KAR and, therefore, is not available for ABI participants to receive. No participants will lose services because of service's removal from the waiver application.</p> <p>Conversely, Support Broker is listed as a service in the ABI KAR but was not included in the waiver application. DMS added it to the renewal to better align the waiver application with the ABI KAR and reflect the services truly available for ABI participants. Currently, Community Mental Health Centers and Area Development Districts are the only available provider types for Support Broker services.</p> <p>Adding a provider type requires amending the ABI KAR. DMS is not amending 907 KAR 3:090 for this renewal. Expansion of provider types will be reviewed and considered as part</p>	
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			of the state’s Enhanced FMAP Spending Plan. Any updates to provider types will be completed through a future KAR change accompanied by a waiver amendment. The public will have an opportunity to review and comment on future KAR and waiver amendments.	
PQT6	Provider	<p>Provider Qualifications – Exclusions</p> <p>Commenter says individuals who have convictions of trafficking, manufacturing, or possessing marijuana in the past five years should not be excluded as waiver providers.</p>	<p>Thank you for the suggestion.</p> <p>Changing provider qualifications requires amending the ABI KAR. DMS is not amending 907 KAR 3:090 for this renewal.</p> <p>Any updates to provider qualifications will be completed through a future KAR change accompanied by a waiver amendment. The public will have an opportunity to review and comment on future KAR and waiver amendments.</p>	

December 2021 – January 2022 Public Comment Response

Reference #	Commenter Type	Comment	DMS Response	Change to the Waiver
Other				
O1	Provider	<p>Continuation of ABI Waiver Services</p> <p>Commenter expressed support for the continuation of ABI waiver services in Kentucky.</p> <p>"We are in the process of applying to participate in the ABI Waiver program as there are service gaps across many counties in the Commonwealth."</p>	<p>Thank you for your comments.</p> <p>DMS appreciates your willingness to serve a new population and help expand choice of waiver providers in Kentucky.</p>	
O2	Participant	<p>Continuation of ABI Waiver Services</p> <p>Commenter urges DMS to continue the ABI waiver for current and future participants.</p>	<p>Thank you for your comments.</p> <p>DMS has no plans to discontinue the ABI waiver. It will continue to be available to current and future participants.</p>	
O3	Advocate	<p>1915(c) Waiver Help Desk</p> <p>Comment asked "Will the Call Center Help Desk be available as a resource for all Kentucky 1915(c) waivers?"</p>	<p>Yes, the 1915(c) Waiver Help Desk became operational in November 2019 and is available as a resource for all of Kentucky's 1915(c) HCBS waivers. The Waiver Help Desk can be reached by phone at (844) 784-5614 or by email at 1915cWaiverHelpDesk@ky.gov</p>	

Reference #	Commenter Type	Comment	DMS Response	Change to the Waiver
O4	Provider	<p>KAR Amendment – Behavior Support Services</p> <p>Commenters requested an amendment to the language in the ABI and ABI KAR related to behavior support plans.</p> <p>"907 KAR 3:090 Section 6 (2) (b) and 907 KAR 3:210 Section 6 (2) (b) states that 'the behavioral support plan can not be implemented by the behavior specialist who wrote the plan'. This has been interpreted to mean that after training on the behavior support plan, the behavior specialist should not monitor the plan through observations, staff interviews, or interactions with the participant. This directly contradicts the Ethics Code for Behavior Analysts and the wording should be removed from the service specifications for behavioral support in both the ABI acute and long term waivers."</p>	<p>Thank you for your feedback.</p> <p>DMS is not amending the ABI KAR for this renewal, however, as we complete the rate study and review of the 1915(c) HCBS under the Enhanced FMAP spending plan, we will review the KAR to assure it aligns with best practices and appropriate standards for behavior supports. Updates will be made through future KAR changes. The public will have an opportunity to review and comment on future KAR amendments.</p>	

Reference #	Commenter Type	Comment	DMS Response	Change to the Waiver
O5	Provider	<p>Record Retention Policies</p> <p>Commenter requests duplicative records requirements be eliminated or reduced throughout the waiver, citing as an example D-1-I which states the Case Manager must maintain service plan forms and that copies of service plans are retained in MWMA for up to five years after the participant's termination.</p> <p>"Currently, case management providers across all waivers are maintaining duplicate records in both their agency records as well as MWMA, and there is a significant amount of time and resources invested in this duplication."</p>	<p>Thank you for your suggestion.</p> <p>DMS is continuously evaluating ways to reduce the administrative burden for 1915(c) HCBS waiver providers, including evaluating potential enhancements to the Medicaid Waiver Management Application (MWMA) to allow providers to upload records from their electronic health record systems to reduce duplicate record-keeping efforts.</p> <p>Changes to record retention policy require amending 1915(c) HCBS waiver regulations. DMS is not amending the ABI KAR for this renewal. Any updates to waiver records retention policy will be completed through a future KAR change accompanied by a waiver amendment. The public will have an opportunity to review and comment on future KAR and waiver amendments.</p>	