Introductions
Introductions and Housekeeping

• Presenters:
  – Pam Smith, Director of the Division of Community Alternatives (DCA)
  – April Lowery, DCA Branch Manager & DMS PDS Workstream Lead
  – Alisha Clark, DCA Branch Manager & DMS Case Management Workstream Lead
Town Hall Agenda
Town Hall Agenda

• Purpose of the Town Halls
• Public Comment Summary and Response
• Review of Selected Waiver Topics
• Anticipated Implementation Milestones and Timeline
• Opportunities for Future Stakeholder Engagement
• Additional Resources and Closing Statements
• Question and Answer Session
Purpose of the Town Halls
The purpose of today’s town hall is to:

1. Share a summary of the 1915(c) HCBS waiver amendment public comment period conducted in Spring 2019.

2. Provide additional information and explain waiver policy changes stakeholders care most about.

3. Communicate next steps and upcoming milestones of 1915(c) HCBS waiver redesign.

4. Answer stakeholder questions.
Public Comment Summary and DMS Response
## Public Comment Summary and Response

<table>
<thead>
<tr>
<th>Start of Comment Collection</th>
<th>End of Comment Collection</th>
</tr>
</thead>
<tbody>
<tr>
<td>3/15/2019</td>
<td>4/15/2019</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>By Type</th>
<th># of Comments</th>
<th>% of Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Participant</td>
<td>12</td>
<td>3%</td>
</tr>
<tr>
<td>Provider</td>
<td>175</td>
<td>39%</td>
</tr>
<tr>
<td>Caregiver</td>
<td>222</td>
<td>50%</td>
</tr>
<tr>
<td>Other Stakeholder</td>
<td>38</td>
<td>9%</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>447</strong></td>
<td><strong>100%</strong></td>
</tr>
</tbody>
</table>
Public Comment Summary and Response (continued)

<table>
<thead>
<tr>
<th>Top 4 Topics Focused On:</th>
<th># of Comment</th>
<th>% of Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Covered Services</td>
<td>558</td>
<td>39%</td>
</tr>
<tr>
<td>Participant Directed Services</td>
<td>301</td>
<td>21%</td>
</tr>
<tr>
<td>Case Management</td>
<td>206</td>
<td>14%</td>
</tr>
<tr>
<td>Payment and Rate Setting</td>
<td>102</td>
<td>7%</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>1441</strong></td>
<td><strong>81%</strong></td>
</tr>
</tbody>
</table>
Public Comment Summary and Response (continued)

• You can find the DMS response to public comments on the DMS Division of Community Alternatives website.
  
  https://chfs.ky.gov/agencies/dms/dca/Pages/default.aspx
• Don’t see your comment?
  – DMS grouped similar comments when answering with the same response.
  – If you need a more individualized response or the response did not address the comment, please reach out to DMS at MedicaidPublicComment@ky.gov
  – Please note questions submitted during public comment will be addressed in upcoming FAQs.
Selected Waiver Topics

- Patient Liability
- Participant Directed Services
- Case Management
Patient Liability
Patient Liability is money some participants are asked to pay toward waiver services if their income is over the monthly limit required to qualify.

**Stakeholder Feedback:**

Based on stakeholder feedback collected in Summer 2018, DMS has changed the way it calculates a participant’s patient liability.
Patient Liability – 1915(c) HCBS Waiver Policy Change

- DMS increased the amount of income protected for personal use to reduce or eliminate patient liability for a majority of participants:

<table>
<thead>
<tr>
<th>Current Patient Liability Policy</th>
<th>Future Patient Liability Policy</th>
</tr>
</thead>
<tbody>
<tr>
<td>100% SSI Federal Benefit Rate (FBR) or $771.64 per month for 2019</td>
<td>300% SSI Federal Benefit Rate (FBR) or $2,314.92 per month for 2019</td>
</tr>
</tbody>
</table>

- If a participant’s monthly income does not go over $2,314.92, they will NOT have to pay patient liability to Medicaid.

- This change takes effect December 1, 2019.

- Questions: Call DCBS at 855-306-8959.
Participant-Directed Services (PDS)
PDS – Stakeholder Feedback

Stakeholder Feedback:

• A large portion of stakeholder comments were in regard to PDS; particularly the implementation of the new *Legally Responsible Individuals (LRI)* policy.

• Participants suggested being allowed to waive certain crimes that may appear on background check as participants select their PDS worker.
DMS made several updates to the PDS service delivery model, including:

- Clarified when it is appropriate for LRIs to serve as PDS employees
- Updated background check requirements for PDS employees
For LRIs to be paid as PDS employees, DMS must have and apply criteria to establish that participant’s needs meet what the Centers for Medicaid and Medicare Services (CMS) refers to as “extraordinary care.”

An LRI applying to be a PDS employee must meet the criteria set in the proposed waivers. The criteria is slightly different if the waiver participant is a child (under 18 years old) versus an adult (18+ years old).

LRIs are responsible for making decisions in the best interest of the participant. The criteria are necessary to limit the possibility of conflicts of interest that may arise when the LRI is paid to provide care.

PDS - Who Is a Legally Responsible Individual (LRI)?

**Definition:** A person who has a legal obligation under the provisions of state law to care for another person. Legal responsibility is defined by state law, and generally includes parents (natural or adoptive) of minor children, legally-assigned caretaker relatives of minor children, and sometimes spouses.

DMS defines an LRI in the following ways:

<table>
<thead>
<tr>
<th>Minor Child (Younger than Age 18)</th>
<th>Adult (Age 18 or older)</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Parent</td>
<td>• Spouse</td>
</tr>
<tr>
<td>• Stepparent</td>
<td>• A Kentucky Court Appointed Legal Guardian</td>
</tr>
<tr>
<td>• Adoptive parent</td>
<td></td>
</tr>
<tr>
<td>• A Kentucky Court Appointed Legal Guardian</td>
<td></td>
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</tbody>
</table>

CMS Definition of “Extraordinary Care”:

“By extraordinary, CMS means care exceeding the range of activities that a legally responsible individual would ordinarily perform in the household on behalf of a person without a disability or chronic illness of the same age, and which are necessary to assure the health and welfare of the participant and avoid institutionalization.”

STEP 1 OF 2: THE MINOR CHILD’S NEEDS

Only **ONE** of the criteria below must be met to proceed to Category 2.

**Criteria 1:** The child’s dependency in performing activities of daily living (ADLs) must be directly related to his or her disability and exceed that of his or her age matched peers.

- Example: A child of seven years who still needs help using the bathroom, as a direct result of a disability.

**OR**

**Criteria 2:** The child demonstrates destructive or injurious behaviors exceeding that of his or her age matched peers and such behaviors represent a risk of serious injury or death to self or others.

- Example: A child becomes angry and, due to a disability, is unable to control their anger and tends to hit others with an object or part of their body.
STEP 2 OF 2: THE CHILD AND/OR CAREGIVER’S SITUATION

Only **ONE** of the four criteria must be met.

**Criteria 1:** The child’s care needs have reduced or eliminated the legally responsible individual’s ability to maintain paid employment in the past 12 months and there is not an alternative caregiver who is functionally able to provide care.

**Criteria 2:** The legally responsible individual can demonstrate attempts within the first 30 days to recruit a qualified provider (traditional or PDS) but cannot secure one.

OR
STEP 2 OF 2: THE CHILD AND/OR CAREGIVER’S SITUATION
Only **ONE** of the four criteria must be met.

**Criteria 3:** The minor child has a **communication barrier** exceeding that of his or her age matched peers that impacts his or her ability to effectively communicate needs and wishes.

**OR**

**Criteria 4:** The minor child has a sincerely held **religious belief** and cannot secure a provider (traditional or PDS) who is culturally competent or shares the same religion.
PDS – Process for Approving LRI PDS Workers for Minor Children

Step One: Demonstrate Need for Extraordinary Care
- Assessed care needs
- Display of Destructive or Injurious Behavior

Step Two: Demonstrate Situational Need for LRI as PDS Worker
- Employment
- Provider Availability
- Communication Barriers
- Religious Beliefs

Approve Eligibility of LRI as PDS Worker
PDS - Criteria for Adults

STEP 1 OF 1: THE ADULT AND/OR CAREGIVER’S SITUATION

Only **ONE** of the criteria below must be met.

**Criteria 1:** The adult’s care needs have reduced or eliminated the legally responsible individual’s ability to maintain paid employment in the past 12 months and there is not an alternative caregiver who is functionally able to provide care.

**Criteria 2:** The legally responsible individual can demonstrate attempts within the first 30 days to recruit a qualified provider (traditional or PDS) but cannot secure one.
PDS - Criteria for Adults (continued)

STEP 1 OF 1: THE ADULT AND/OR CAREGIVER’S SITUATION

Only **ONE** of the criteria below must be met.

**Criteria 3**: The adult has a communication barrier that impacts his or her ability to effectively communicate needs and wishes to be a care provider.

**OR**

**Criteria 4**: The adult has a sincerely held religious belief and cannot secure a provider (traditional or PDS) who is culturally competent or shares the same religion.
PDS – Implementing the New PDS Policy for Current LRI PDS Workers

Home and Community Based (HCB)

Supports for Community Living (SCL)

Current PDS employees who are an LRI on the HCB or SCL waivers will NOT be required to go through this process because they have undergone a screening in the last several years.
PDS – Implementing the New PDS Policy for Current LRI PDS Workers

Acquired Brain Injury (ABI)

Acquired Brain Injury Long-Term Care (ABI-LTC)

Michelle P. Waiver (MPW)

Current PDS employees who are an LRI on the **ABI, ABI-LTC, or MPW** waivers **will be required** to go through this process once the waivers are effective.
DMS revised background check requirements for PDS employees to offer more flexibility.

PDS Employees will:

• Be able to bring previously completed background checks with them if it meets established requirements in the last 12 months.
• Must undergo a risk assessment for tuberculosis annually.

PDS Participants may waive:

• The requirement for employees to have CPR and first aid training.
• A potential PDS employee’s criminal history if it only includes lesser offenses that are not outright disqualifiers (e.g. no violent crimes or fraud).
Case Management
Stakeholder Feedback / Assessment Finding:

- Delays in the service authorization process impact participant access to timely care.
- There is support to shift service authorization to case managers provided there is training, tools and guidance.
Case managers will approve some services that address participant’s needs identified in the functional assessment.

Skilled services will be reviewed by DMS or its designee.

All services offered under the Model II waiver are skilled services and will need to be approved by DMS.
Case Management – Service Authorization (continued)

- Case managers will approve:

  **ABI Acute**
  - Assessment/Reassessment
  - Companion
  - Day Training
  - FMS
  - Goods and Services*
  - Non-Specialized Respite
  - Residential Support Level I, II & III

  **ABI LTC**
  - Adult Day Health
  - Assessment/Reassessment
  - Companion
  - Day Training
  - FMS
  - Goods and Services*
  - Natural Supports Training
  - Non-Specialized Respite
  - Residential Support Level I, II & III

  **HCB**
  - Adult Day Health
  - Attendant Care
  - FMS
  - Goods and Services*
  - Home and Community Supports
  - Home Delivered Meals
  - Non-Specialized Respite
  - Personal Assistance

*DMS will approve Goods and Services requests of more than $500.*
Case managers will approve:

**MPW**
- Adult Day Health
- Attendant Care
- Community Living Supports
- Day Training
- FMS
- Goods and Services*
- Homemaking
- Non-Specialized Respite
- Personal Assistance

**SCL**
- Community Access
- Community Guide
- Community Transitions
- Day Training
- FMS
- Goods and Services*
- Natural Supports Training
- Non-Medical Transportation
- Non Specialized Respite
- Personal Assistance
- Positive Behavior Planning
- Residential Support Level I & II

*DMS will approve Goods and Services requests of more than $500.*
Case Manager Training

- Establish case management delivery expectations
- Provide education to support case manager facilitation and communication to participants and their natural supports
- Provide accessible training that is aligned with federal regulations and national leading practices
- Include real-life scenarios to demonstrate possible issues and appropriate resolutions
Case Manager Help Desk

- Provide timely guidance and technical assistance
- Assist case managers with case specific questions
- Provide policy clarification
Monitoring

- Regularly review a random selection of participant files
- Utilize standard monitoring tools to promote consistent and objective reviews
Anticipated Implementation
Milestones and Timeline
Implementation Milestones and Timeline

Spring 2019
- Reopen Public Comment
- Waiver Amendment (WA) #1
- Submit WA #1 to CMS
- In-person Town Halls

Summer 2019
- Financial Management Agency Minimum Standards of Practice Released to Public

Fall 2019
- PDS Participant Guide Released to Public
Implementation Milestones and Timeline (continued)

- **Fall 2019**
  - Begin WA #2 Public Comment
  - WA #1 Effective

- **Winter 2020**
  - Submit WA #2 to CMS

- **Spring 2020**
  - WA #2 Effective
  - Updated Waiver Regulations Effective

- **Fall 2019**
  - Fall 2019

- **Winter 2020**
  - Winter 2020
Opportunity for Future Stakeholder Engagement
Opportunities for Future Stakeholder Engagement

Thank you for joining us. We appreciate your time and attention and look forward to your continued collaboration.

Please continue to submit questions and comments to DMS at:

MedicaidPublicComment@ky.gov
Closing and Additional Resources
Closing and Additional Resources

Please find additional resources regarding 1915(c) HCBS waiver redesign on the Division for Community Alternatives Website at:

Additional materials include:

- Frequently Asked Questions
- The official DMS response to public comments
- HCBS – AP and Subpanel meeting minutes
- Public Announcements