



1915(c) Home and Community-Based Services (HCBS) Waiver Redesign Town Hall

Commonwealth of Kentucky
Cabinet for Health and Family Services

June 2019

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

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

Start of Comment Collection	End of Comment Collection	
3/15/2019	4/15/2019	
By Type	# of Comments	% of Total
Participant	12	3%
Provider	175	39%
Caregiver	222	50%
Other Stakeholder	38	9%
TOTAL	447	100%

Public Comment Summary and Response (continued)

Top 4 Topics Focused On:	# of Comment	% of Total
Covered Services	558	39%
Participant Directed Services	301	21%
Case Management	206	14%
Payment and Rate Setting	102	7%
TOTAL	1441	81%

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>

Public Comment Summary and Response (continued)

- 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 – Stakeholder Feedback

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:

Current Patient Liability Policy	Future Patient Liability Policy
100% SSI Federal Benefit Rate (FBR) or \$771.64 per month for 2019	300% SSI Federal Benefit Rate (FBR) or \$2,314.92 per month for 2019

- 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

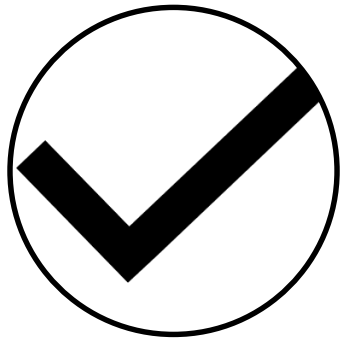
Stakeholder Feedback:

- 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.

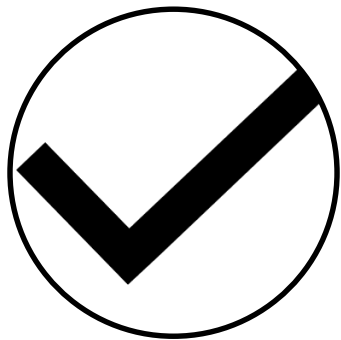


PDS – Overview

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



PDS - Understanding Federal Requirements

- 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.

Source: Centers for Medicare and Medicaid Services, Application for a 1915(c) Home and Community-Based Waiver. Instructions, Technical Guide and Review Criteria. January 2019. page 108-112



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:

Minor Child (Younger than Age 18)	Adult (Age 18 or older)
<ul style="list-style-type: none">• Parent• Stepparent• Adoptive parent• A Kentucky Court Appointed Legal Guardian	<ul style="list-style-type: none">• Spouse• A Kentucky Court Appointed Legal Guardian

Source: Centers for Medicare and Medicaid Services, Application for a 1915(c) Home and Community-Based Waiver. Instructions, Technical Guide and Review Criteria. January 2019. page 108



PDS – Federal Definition of Extraordinary Care

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.”

Source: Centers for Medicare and Medicaid Services, Application for a 1915(c) Home and Community-Based Waiver. Instructions, Technical Guide and Review Criteria. January 2019. page 109.



PDS – Step 1 for a Minor Child

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.



PDS – Step 2 for a Minor Child (continued)

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.

OR

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 – Step 2 for a Minor Child (continued)

STEP 2 OF 2: THE CHILD AND/OR CAREGIVER'S SITUATION

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

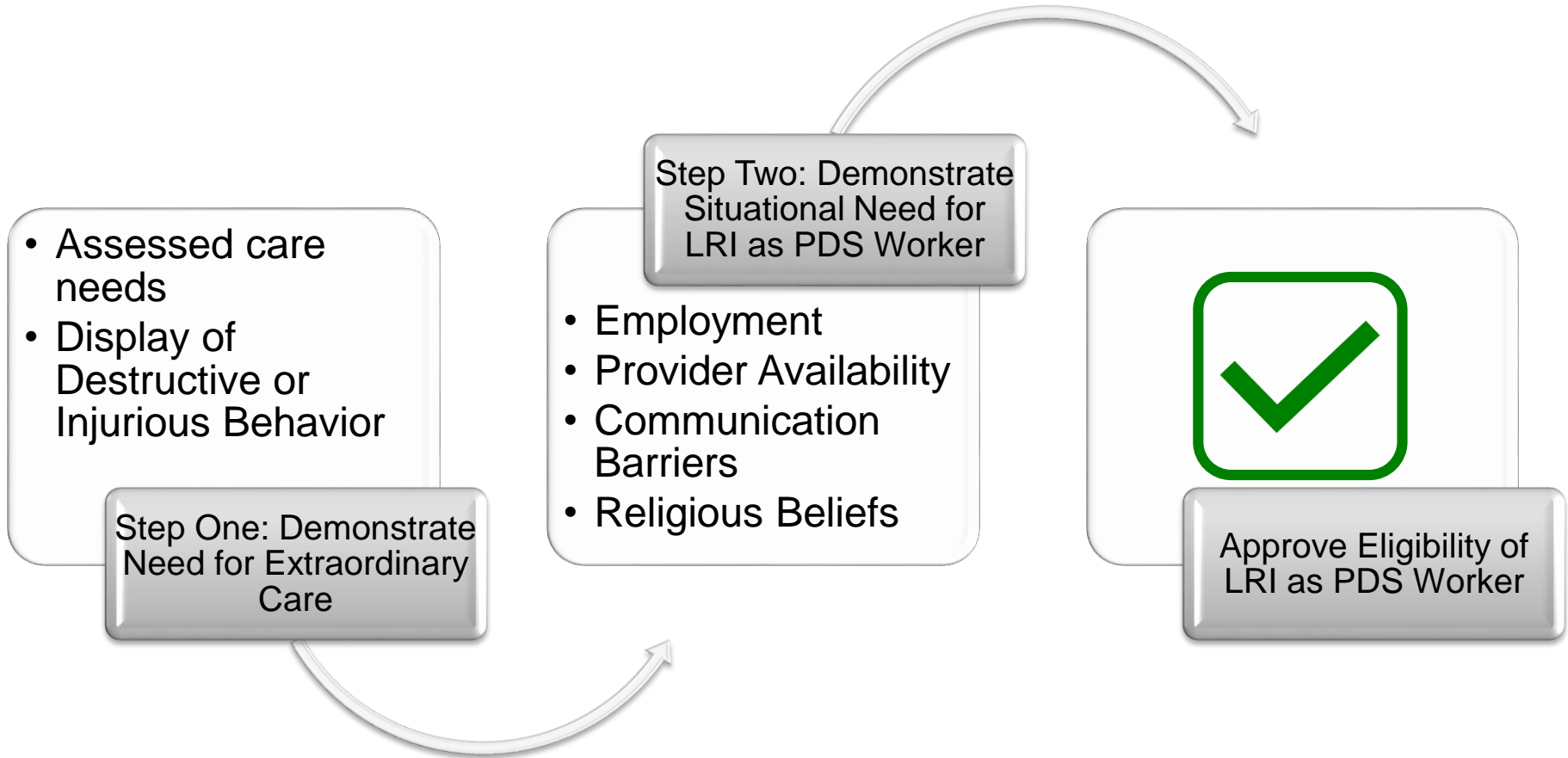
Criteria 3: The minor child has a **communication barrier** exceeding that of his or her age matched peers that impacts his or her ability to effectively communicate needs and wishes.

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





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.

OR

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.



PDS – Background Checks for PDS Employees

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



Case Management – Stakeholder Feedback

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 Management – Service Authorization

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 Management – Service Authorization (continued)

- 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 Management – Case Management Support

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 Management – Case Management Support (continued)

Case Manager Help Desk

Provide timely guidance and technical assistance

Assist case managers with case specific questions

Provide policy clarification



Case Management – Case Management Support (continued)

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

Fall 2019

PDS
Participant
Guide
Released to
Public

In-person
Town Halls

Financial
Management
Agency
Minimum
Standards of
Practice
Released to
Public

Summer 2019

Implementation Milestones and Timeline (continued)

Fall 2019

Spring 2020

**Begin WA #2
Public
Comment**

**Submit WA
#2 to CMS**

**Updated
Waiver
Regulations
Effective**

**WA #1
Effective**

**WA #2
Effective**

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:
<https://chfs.ky.gov/agencies/dms/dca/Pages/default.aspx>.

Additional materials include:

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