



CABINET FOR HEALTH  
AND FAMILY SERVICES

# **Waiver Assurances and Performance Measures**

# Agenda

- Waiver Overview
- Waiver Application Overview
- Kentucky's Approved 1915c Waivers
- Waiver Assurances
- Waiver Performance Measures

# Waiver Overview

- Federal/State Partnership – with each paying part of the cost
- Waive institutionalization
  - 1915c refers to the section of the social security act which authorizes states to request the option to provide home and community-based alternatives to institutional care
  - The Home and Community Based Services (HCBS) waiver program began nationally in 1981 to correct the “institutional bias” of Medicaid funding
  - The bias was that individuals could get support services if institutionalized, but if they wanted to live in the community, they could not get Medicaid-funded services in their home or the community.
  - Federal waiver regulations: 42CFR441.300-310  
<https://www.ecfr.gov/current/title-42/chapter-IV/subchapter-C/part-441/subpart-G>
  - Link to Medicaid website regarding 1915c waivers  
<https://www.medicaid.gov/medicaid/home-community-based-services/home-community-based-services-authorities/home-community-based-services-1915c/index.html>

# Waiver Application Overview

- The state fills in the template and submits for CMS approval
- The application has 10 Appendices.
  - Appendix A: Waiver Administration and Operation
  - Appendix B: Participant Access and Eligibility
  - Appendix C: Participant Services
  - Appendix D: Participant-Centered Planning and Service Delivery
  - Appendix E: Participant Direction of Services
  - Appendix F: Participant Rights
  - Appendix G: Participant Safeguards
  - Appendix H: Quality Management Strategy
  - Appendix I: Financial Accountability
  - Appendix J: Cost Neutrality Demonstration

# Kentucky's Approved Waivers

- Link to the each of Kentucky's CMS approved 1915c waivers:
  - [Acquired Brain Injury](#)
  - [Acquired Brain Injury Long Term Care](#)
  - [Michelle P. Waiver](#)
  - [Supports for Community Living](#)
  - [Home and Community Based Waiver](#)
  - [Model II waiver](#)
- Link to Kentucky's Department for Medicaid Services (DMS) website regarding 1915c waivers <https://www.chfs.ky.gov/agencies/dms/dca/Pages/HCBSWaiver.aspx>

# Waiver Assurances

- In each appendix, the state must describe how they will meet the requirements of the HCBS waiver program. Six of the ten appendices include Assurances.
- Appendix A: Administrative Authority
  - Assurance: The Medicaid Agency retains ultimate administrative authority and responsibility for the operation of the waiver program by exercising oversight of the performance of waiver functions by other state and local/regional non-state agencies and contracted entities.
- Appendix B: Level of Care
  - Assurance: The state demonstrates that it implements the processes and instrument(s) specified in its approved waiver for evaluating/re-evaluating and applicant's/waiver participant's level of care consistent with care provided in a hospital, NF, or ICF/IID.
    - An evaluation for LOC is provided to all applicants for whom there is reasonable indication that services may be needed in the future.
    - The processes and instruments described in the approved waiver are applied appropriately and according to the approved description to determine participant LOC.

# Waiver Assurances

- Appendix C: Qualified Providers
  - Assurance: The State demonstrates that it has designed and implemented an adequate system for assuring that all waiver services are provided by qualified providers.
    - The state verifies that providers initially and continually meet required licensure and/or certification standards and adhere to other standards prior to their furnishing waiver services.
    - The state monitors non-licensed/non-certified providers to assure adherence to waiver requirements.
    - The state implements its policies and procedures for verifying that provider training is conducted in accordance with state requirements and the approved waiver.

# Waiver Assurances

- Appendix D: Service Plan
  - Assurance: The State demonstrates it has designed and implemented an effective system for reviewing the adequacy of service plans for the waiver participants.
    - Service plans address all participants' assessed needs (including health and safety risk factors) and personal goals, either by waiver services or through other means.
    - Service plans are updated/ revised at least annually or when warranted by changes in the waiver participant's needs.
    - Services are delivered in accordance with the service plan, including in the type, scope, amount, duration, and frequency specified in the service plan.
    - Participants are afforded choice between/among waiver services and providers.



# Waiver Assurances

- Appendix G: Health and Welfare
  - Assurance: The State demonstrates it has designed and implemented an effective system for assuring waiver participant health and welfare.
    - The State demonstrates on an ongoing basis that it identifies, addresses and seeks to prevent instances of abuse, neglect, exploitation and unexplained death.
    - The State demonstrates that an incident management system is in place that effectively resolves those incidents and prevents further similar incidents to the extent possible
    - State policies and procedures for the use or prohibition of restrictive interventions (including restraints and seclusion) are followed.
    - The State establishes overall health care standards and monitors those standards based on the responsibility of the service provider as stated in the approved waiver.

# Waiver Assurances

- Appendix I: Financial Accountability
  - Assurance: The State must demonstrate that it has designed and implemented an adequate system for insuring financial accountability of the waiver program.
    - The State provides evidence that claims are coded and paid for in accordance with the reimbursement methodology specified in the approved waiver and only for services rendered.
    - The State provides evidence that rates remain consistent with the approved rate methodology throughout the five-year waiver cycle.
- CMS webinar regarding HCBS services
  - <https://www.youtube.com/watch?v=JL4yX4GbX08>

# Performance Measures

- For each assurance, the state must include at least one performance measure stating how the state will demonstrate that the assurance has been met.
- Performance measures must be in compliance with the HCB setting requirements and other regulatory components of the waivers.
- The threshold to be considered compliant with performance measures is 86%. For any not meeting the threshold, the state must have a plan for improvement.
- While it is up to the state to gather and provide the performance measure data to CMS, **much of the responsibility for the compliance with the actual measures belongs to providers.**

# Appendix A: Waiver Administration and Operation

- **Assurance:** The Medicaid Agency retains ultimate administrative authority and responsibility for the operation of the waiver program by exercising oversight of the performance of waiver functions by other state and local/regional non-state agencies and contracted entities.
- **Performance Measure:**
  - Providers with a **current approved** provider agreement
- **Provider responsibility**
  - Keep information current in the Medicaid Partner Portal Application (MPPA)

# Appendix B: Participant Access and Eligibility

- Assurance: An evaluation for LOC is provided to all applicants for whom there is reasonable indication that services may be needed in the future
- Performance Measure
  - LOC reviews conducted **within 60 days of capacity reserved**
- Provider Responsibility varies by waiver
  - It is important for providers to do what they can to make sure LOC has been submitted in time for LOC determination to take place within 60 days of allocation.

# Appendix B: Participant Access and Eligibility

- **Assurance:** The processes and instruments described in the approved waiver are applied appropriately and according to the approved description to determine participant level of care.
- **Performance Measure**
  - Waiver participants whose initial or subsequent LOC was appropriately determined using the assessment and supporting documentation based on regulations and waiver requirements
- **Provider responsibility varies by waiver**
  - If responsible for submitting anything, be sure to use current forms/documentation

# Appendix C: Participant Services

- **Assurance:** The State verifies that providers initially and continually meet required licensure and/or certification standards and adhere to other standards prior to their furnishing waiver services
- **Performance Measures**
  - New providers meet initial requirements and adhere to other standards prior to the furnishing of waiver services
  - Enrolled providers who continue to meet cert and licensure requirements and adhere to other standards following initial enrollment as required to continue to render waiver services
- **Provider responsibility**
  - Know and adhere to requirements – including thorough training of new staff

# Appendix C: Participant Services

- **Assurance:** The State monitors non-licensed/non-certified providers to assure adherence to waiver requirements
- **Performance Measures**
  - New PDS employees meet initial personnel requirements prior to the furnishing of waiver services
  - Existing PDS employees continue to meet personnel requirements



# Appendix C: Participant Services

- **Assurance:** The State implements its policies and procedures for verifying that provider training is conducted in accordance with state requirements and the approved waiver
- **Performance Measures**
  - Staff have successfully completed mandatory training in accordance with state requirements and the approved waiver
  - PDS employees have successfully completed mandatory training in accordance with state requirements and the approved waiver
- **Provider Responsibility**
  - Provide the training and have something in place to be able to track completion – such as a log with signatures and dates

# Appendix D: Participant-Centered Planning and Service Delivery

- **Assurance:** Service plans address all participants assessed needs (including health and safety risk factors) and personal goals, either by the provision of waiver services or through other means
- **Performance Measure**
  - Service plans with risk assessments with documented risk mitigation information
- **Provider responsibility**
  - Make sure risk has been assessed and risk mitigation information is provided.

# Appendix D: Participant-Centered Planning and Service Delivery

- **Assurance:** Service plans address all participants' assessed needs (including health and safety risk factors) and personal goals, either by the provision of waiver services or through other means
- **Performance Measure**
  - Service plans with goals and objectives that address assessed needs and the individual's goals
- **Provider responsibility**
  - Make sure each plan is truly person-centered by utilizing assessments, other documentation, and conversations and that it clearly addresses the person's needs and goals

# Appendix D: Participant-Centered Planning and Service Delivery

- **Assurance:** Service plans are updated/revised at least annually or when warranted by changes in the waiver participants needs
- **Performance Measures**
  - Service plans were updated and submitted within one year of their initial or last assessment
  - Modification to the person-centered service plan due to an identified change in service needs
- **Provider responsibility**
  - Make sure to update plans timely, both as needs change and within a year of the last annual plan. Be sure they are done prior to the expiration of LOC date.

# Appendix D: Participant-Centered Planning and Service Delivery

- Assurance: Participants are afforded choice: Between/among waiver services and providers
- Performance Measures
  - Participant records indicating individual has been given choice of waiver services and choice between eligible waiver providers
- Provider responsibility
  - Be sure to provide choice and the attestation of the choice

# Appendix G: Participant Safeguards

- **Assurance:** The state demonstrates on an ongoing basis that it identifies, addresses and seeks to prevent instances of abuse, neglect, exploitation and unexplained death
- **Performance Measure**
  - Participants (or families/legal guardians) received information on how to identify and report abuse, neglect, exploitation, and unexpected death
- **Provider responsibility**
  - Provide the information and have something in place to be able to show a compilation that it has been done – such as a log with family/individual signatures and dates

# Appendix G: Participant Safeguards

- **Assurance:** The state demonstrates on an ongoing basis that it identifies, addresses and seeks to prevent instances of abuse, neglect, exploitation and unexplained death
- **Performance Measures**
  - Reports of potential abuse, neglect, exploitation & unexpected death submitted in timeframe
  - Potential abuse, neglect, exploitation & unexpected death incidents reviewed/investigated in required timeframe
- **Provider Responsibility**
  - Submit incidents and investigate them in accordance with incident guidance <https://chfs.ky.gov/agencies/dms/dca/Documents/irinstructionalguide.pdf>

# Appendix G: Participant Safeguards

- **Assurance:** The state demonstrates on an ongoing basis that it identifies, addresses and seeks to prevent instances of abuse, neglect, exploitation and unexplained death
- **Performance Measure**
  - Provider follow up action (CAP, etc.) was completed and correctly submitted to the department
- **Provider Responsibility**
  - Submit carefully thought out, thorough, timely CAPs



# Appendix G: Participant Safeguards

- **Assurance:** The state demonstrates on an ongoing basis that it identifies, addresses and seeks to prevent instances of abuse, neglect, exploitation and unexplained death
- **Performance Measure**
  - Abuse, neglect, exploitation and unexpected death incidents referred to appropriate investigative entities (ex: Law Enforcement/APS/CPS) for follow-up
- **Provider Responsibility**
  - Follow the instructional guide regarding reporting
    - <https://www.chfs.ky.gov/agencies/dms/dca/Documents/irinstructionalguide.pdf>

# Appendix G: Participant Safeguards

- **Assurance:** The state demonstrates on an ongoing basis that it identifies, addresses and seeks to prevent instances of abuse, neglect, exploitation and unexplained death
- **Performance Measure**
  - Employees receive training on abuse, neglect, exploitation, and preventable deaths
- **Provider responsibility**
  - Provide the training and have something in place track that it has been done – such as a log with employee signatures and dates

# Appendix G: Participant Safeguards

- **Assurance:** The state demonstrates that an incident management system is in place that effectively resolves those incidents and prevents further similar incidents to the extent possible
- **Performance Measures**
  - Critical incidents with root cause identified and systematic intervention implemented
- **Provider Responsibility**
  - Determine root cause, determine what to do about it, and implement the change

# Appendix G: Participant Safeguards

- **Assurance:** The state policies and procedures for the use or prohibition of restrictive interventions (including restraints and seclusion) are followed
- **Performance Measures**
  - Use of restrictive interventions followed policies and procedures
  - Reports submitted without inappropriate use of seclusion or restraint
- **Provider responsibility**
  - Follow regulations and the CMS approved waivers

# Appendix G: Participant Safeguards

- **Assurance:** The state establishes overall health care standards and monitors those standards based on the responsibility of the service provider as stated in the approved waiver
- **Performance Measures**
  - Participants who received information and support to access Medicaid State Plan services identified in their Person-centered Service Plan (PCSP)
- **Provider responsibility**
  - Identify needed services in addition to waiver services, include them on the PCSP, and facilitate the receipt of those services

# Appendix I: Financial Accountability

- **Assurance:** The State provides evidence that claims are coded and paid for in accordance with the reimbursement methodology specified in the approved waiver and only for services rendered
- **Performance Measures**
  - Claims coded and paid for in accordance with the established reimbursement methodology specified in the approved waiver
  - Claims submitted and paid for services rendered on the participants plan of care and only for services rendered
- **Provider responsibility**
  - Provide services as prior authorized
  - Maintain proper documentation of services provided

# Key Takeaways

- The assurances are determined by CMS
- The performance measures are determined by each state and submitted to CMS for approval
  - Suggestions of performance measures are welcome and can be submitted to the operating agency of the waiver
  - Suggestions of how to capture the performance measures are welcome and can be submitted to the operating agency of the waiver
- Providers have considerable responsibility for compliance with performance measures
- **Approval of and funding for waivers is contingent upon fulfilling the performance measures**

# Contact Information

- ABI waivers and Model II waiver
  - Department for Medicaid Services
  - 844-784-5614
  - [1915cWaiverHelpDesk@ky.gov](mailto:1915cWaiverHelpDesk@ky.gov)
- HCB waiver and participant direction for all waivers
  - Department for Aging and Independent Living
  - 877-315-0589
  - [HCBInquiries@ky.gov](mailto:HCBInquiries@ky.gov)
- MP and SCL waivers
  - Department for Behavioral Health, Developmental and Intellectual Disabilities
  - 502-564-7700
  - [DDID.Info@ky.gov](mailto:DDID.Info@ky.gov)