1915(c) Home and Community Based Services (HCBS) Task Force
Amending Kentucky’s 1915(c) HCBS Waivers
August 23, 2021
Presenter
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Division of Community Alternatives
The Process of Updating a 1915(c) HCBS Waiver

**Decision Making and Planning**
- Proposed updates must be determined. This requires data review and analysis and input from all applicable CHFS agencies, providers, and participants.

**Update or Rewrite 1915(c) Waiver Application**
- The waiver application must be re-written or edited to reflect proposed changes. While DMS may take the lead, the process involves review and assistance from applicable CHFS agencies.

**Public Comment Period**
- CMS* requires the public have at least 30-days to review and submit public comments on the waiver. During this 30-days, DMS reviews and classifies submissions daily during this period.

**Public Comment Response**
- Once the public comment period concludes, DMS must review all comments and issue a public response before submitting the waiver.

*Centers for Medicare and Medicaid Services
The Process of Updating a 1915(c) HCBS Waiver

- The waiver applications may need additional updates based on public comment before submission to CMS.

**Prepare for Waiver Submission**

- CMS has 90-days to review and approve the application, however, it can send the state a formal request for additional information (RAI) about the waiver application. This pauses the 90-day clock. Once the state submits its response, a new 90-day clock begins.

**Submit Waiver Application**

- Once a waiver application is approved by CMS, the corresponding KAR* must be updated.

**Kentucky Administrative Regulation (KAR) Updates**

- Updated waivers cannot take effect until KARs are updated and approved.

**Waiver Takes Effect**

*Kentucky Administrative Regulation*
## Priority Actions to Improve Kentucky’s 1915(c) HCBS

<table>
<thead>
<tr>
<th>Proposal</th>
<th>Legislative Action Required</th>
<th>Regulatory Changes Required</th>
<th>Waiver Application Changes Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>Update provider reimbursement rates</td>
<td>Funding</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>New wait list management policies</td>
<td>Public Support</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Independent and universal assessment</td>
<td>Funding</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Strengthen participant directed services design and operations</td>
<td>Public Support</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Individual budgeting</td>
<td>Funding</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Evaluate new waivers or reconfiguration of current waivers</td>
<td>Public Support</td>
<td>Yes</td>
<td>Yes</td>
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</tbody>
</table>
2018-2019 1915(c) HCBS Waiver Rate Study

• DMS conducted a study of 1915(c) HCBS waiver rates between November 2018 and September 2019.

• The purpose of the study was to identify rates in need of adjustment, make rates consistent for similar services across waivers, and develop a rate-setting methodology for HCBS services.

• The rate methodology and proposed rate adjustments were developed by taking into consideration:
  • Input from a rate study work group comprised of CHFS staff, provider agency and association representatives, participants, and advocates
  • State-specific Bureau of Labor Statistics (BLS) wage data
  • BLS employment benefits data
  • Economic data from the Kentucky Center for Statistics
  • State-specific data from the Medical Expenditure Panel Survey – Insurance Component
The Rate Methodology Developed

Direct Care Cost
- Cost for Direct Care Services
  - Wages
  - Benefits
  - Non-Billable Time
  Adjusted by staffing ratios, as applicable
- Supervisory Direct Care Cost
  - Wages
  - Benefits
  - Non-Billable Time
  Adjusted by staffing ratios, as applicable

Non-Direct Care Cost
- Program Support Cost
- Administrative Overhead

Applied to All Services Categories

Rate

Varies Based on Service Categories
Fiscal Impact: Per Capita Expenditures by Waiver

Although the Acquired Brain Injury (ABI) acute waiver is the most heavily impacted by the proposed rate structure, its' overall per capita funding remains the highest of all waivers.

<table>
<thead>
<tr>
<th>Waiver</th>
<th>Individuals Served</th>
</tr>
</thead>
<tbody>
<tr>
<td>ABI</td>
<td>222</td>
</tr>
<tr>
<td>ABI-LTC</td>
<td>257</td>
</tr>
<tr>
<td>HCB</td>
<td>8,799</td>
</tr>
<tr>
<td>MPW</td>
<td>9,960</td>
</tr>
<tr>
<td>SCL</td>
<td>4,887</td>
</tr>
<tr>
<td>MOD2</td>
<td>41</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>24,096</strong></td>
</tr>
</tbody>
</table>

Per Capita Funding by Waiver

- ABI: $107,233
- ABI-LTC: $90,878
- HCB: $72,290
- MPW: $77,429
- SCL: $77,823
- MOD2: $73,872

- Current Rates
- Proposed Rates
In Kentucky, waiting lists for slots on MPW and SCL waivers are lengthy. Multi-year wait times are common.

MPW’s earliest application processing dates to 2015. SCL’s earliest waitlist date for urgent requests is 2000, and for future planning requests is 1995.

An average of 78 individuals are added to the MPW waiting list each month. For SCL, an average of 30 are added each month.
Eliminating Wait Lists: The Cost

Calculating the dollar amount it would take to eliminate the wait list is difficult. It’s hard to estimate what each individual would need or what their services would cost. There are some practical steps that could be taken to reduce and better manage wait lists.

- Evaluate current utilization
- Identify individuals who are underutilizing waiver or could be better served by the state plan only
- Complete new rate study
How Can the General Assembly Help?

**Funding**

- Additional money is needed to improve HCBS programs for current participants and expand availability to all Kentuckians in need of supports.

**Holistic Consideration of HCBS**

- Certain populations receiving HCBS have a stronger advocacy network than others; however, all of Kentucky’s HCBS programs are in need of updates and improvements.

**Public Support for HCBS Updates**

- DMS anticipates pushback from stakeholders regarding certain updates and needs support to move those forward. Hot button issues include rate-setting and participant directed services policies.