

1915(c) Medicaid Waivers Rate Study Timeline and Issues

February 2017:

- Kentucky's Cabinet for Health and Family Services, Department for Medicaid Services (DMS) issues a request for proposals (RFP) for the assessment and redesign of Kentucky's six 1915(c) waivers.

April 2017:

- DMS contracts with Navigant Consulting to assesses and make recommendations for the redesign of Kentucky's six 1915(c) waivers.
- Note: Navigant Consulting was acquired by Guidehouse in 2019 and now operates under the name Guidehouse.

April 2017- Fall 2019:

- Review and assessment of waivers conducted by Navigant.
- Navigant conducts a rate study of all 1915 (c) waiver reimbursement rates.
 - Rate study included a comprehensive provider cost survey to be used as the basis of new rate structure.

2018:

- Providers complete and submit the cost survey portion of the rate study.
- Only 30% of providers respond.

Fall 2019:

- Proposed rates released for public comment.
- Stakeholders immediately identified numerous issues with the rate study and resulting proposed rates:
 - **Strict parameters were placed on Navigant resulting in invalid rate study results that do not reflect the actual cost of providing services.**
 - DMS instructed Navigant that any rate study result must be "cost neutral," meaning that Navigant was not permitted to recommend a rate structure that required an appropriation. As a result, Navigant shifted funds between the waivers instead of recommending rates that reflect the true cost of doing business.
 - Please see KAPP's December 2019 public comments (attached) for a full breakdown of the issues identified with the 2018/2019 rate study and resulting proposed rates.

February 2020:

- In a letter dated February 13, 2020, DMS announced that “based on stakeholder input, DMS is currently re-evaluating some of the recommendations included in the 1915 (c) HCBS Waiver Assessment report. Before moving forward, we want to ensure that all recommendations are thoroughly vetted to eliminate or minimize unintended consequences.”¹
- As a result of this letter, implementation of the 2018 rate study methodology and resulting rates was paused.

March 2, 2022:

- DMS announced that it has contracted with Guidehouse (formerly Navigant) to conduct another 1915(c) waiver rate study.
 - Contract amount: \$2,125,056.00
- **In its announcement DMS estimates that the rate study will be complete and implemented by “Spring 2023”.**
- In its announcement DMS outlines²:
 - “The Centers for Medicare & Medicaid Services (CMS) requires states to review, and when appropriate, update HCBS waiver rates at least every five years or any time there is a substantive change needed. Kentucky’s rate methodology pre-dates this time frame and CMS has advised DMS that the rate methodology must be updated to reflect costs more accurately and adhere to evolving federal guidance. “
 - “DMS conducted a rate study in 2018 - 2019 but the recommendations were not adopted because the waiver program costs needed to stay the same despite any proposed rate adjustments. This time, DMS is not requiring overall waiver program costs to stay the same so there is more flexibility to update rates.”
 - “Guidehouse will provide rate recommendations and draft rate methodology documentation to DMS. DMS will release these to the public and conduct a CMS-required public comment period to obtain input on any proposed rate-setting or rate methodology changes before they are submitted to CMS for approval.”

April-July 2022:

- Stakeholder rate study workgroup is formed by DMS and meets regularly to discuss the progress of the rate study.
- These meetings were posted online by DMS to ensure transparency.

November 2022:

- **2022 rate study is complete.**
- Preliminary rate study results are released to the rate study work group and posted online.

¹ <https://www.chfs.ky.gov/agencies/dms/dca/Documents/redesignpauseletter.pdf>

² <https://www.chfs.ky.gov/agencies/dms/dca/Documents/RateStudyProviderBrief.pdf>

- KAPP saved copies of the 2022 rate study results. Those can be accessed [here](#).

January/February 2023:

- Preliminary rate study results are taken offline by DMS and are no longer available to the public.

February 2023-June 2024:

- No action taken to implement the 2022 rate study.
- No communication from DMS regarding an implementation timeline.

2024 Regular Session:

- 2024 Budget Bill -- The General Assembly includes the following funding to fully implement the 2022 1915(c) rate study:
 - \$47,051,700 in General Fund and \$118,448,300 in Federal Funds in fiscal year 2024/2025 and \$47,167,500 in General Fund and \$118,332,500 in Federal Funds in fiscal year 2025/2026 to update and increase the benchmark reimbursement rates for the Medicaid 1915(c) Home and Community Based Services waivers.

June 5, 2024:

- DMS announces that **“After careful consideration and deliberation, the Department decided, and the General Assembly funded an increase to 70% of the benchmark rates established by the rate study.”**³

August – September 2024:

- DMS amends all 1915(c) waivers to include the rate methodology proposed by the rate study and the proposed 70% implementation level.
- Per CMS rules, DMS puts each waiver and supporting documents out for public comment. The public comment period was August 14, 2024 – September 13, 2024. **This is the first opportunity providers were given to review the rate study.**
- **DMS removed the Rate Study Version 2 during the public comment period without notice or explanation and replaced it with Version 3.**
- DMS submitted all 1915(c) waiver to the Centers for Medicare and Medicaid Services (CMS) for approval at the conclusion of the public comment period. To date, CMS has not issued approval.

³ <https://www.chfs.ky.gov/agencies/dms/dca/waivers/WaiverRateStudyResults.pdf>

ISSUE: Appropriation Discrepancy

In the Rate Study Report, “Guidehouse claims that “the 2024 General Assembly finalized House Bill 6...and authorized funding to implement rates aligned with 70% of the benchmark rates.”⁴ The Cabinet echoes this claim in each of its 1915(c) Waiver applications. While it is true that the General Assembly did include considerable funding in House Bill 6 to implement the rate study, the House Bill 6 appropriation was sufficient to fund more than 70% implementation while also leveraging strategies to prevent rate reductions.

Version 2 of the Rate Study Report contained fiscal impact projections demonstrating the rates implemented effective 1/1/25 required a \$68 million general fund appropriation.⁵ CHFS received a \$94 million dollar appropriation. Why were 100% of the appropriated funds not used to increase reimbursement rates?

ISSUE: The Rate Study Report Was Amended Without Notice or Explanation During the Public Comment Period

- On or about August 14, 2024 the Cabinet notified stakeholders of a 30-day public comment period for all 1915(c) Home and Community Based Services waivers. The Cabinet also announced that stakeholders could review the waiver applications, summaries of updates, and the Guidehouse Rate Study Report. These documents were uploaded to the Cabinet’s website and available beginning August 14, 2024
- Beginning August 14, 2024 the version of the Rate Study Report available on the Cabinet’s website was titled “Summary Report and Benchmark Rates: 1915(c) Home and Community Based Services Waiver Rate Study – Version 2.” Version 2 of the Rate Study Report contained 44 pages.
- As of September 9, 2024, the Version 2 of the Rate Study Report- Version 2 was no longer available. The Cabinet replaced Version 2 with Version 3. Version 3 of the Rate Study Report contained 40 pages- 4 pages less than Version 2.
- The Rate Study Report Version 2 was taken down without notice or explanation. Besides the obvious 4 pages that were removed to create Version 3 of the Rate Study Report, stakeholders have no way of knowing what changes were made from

⁴ Guidehouse Inc. *Summary Report and Benchmark Rates 1915(c) Home and Community Based Services Waiver Rate Study – Version 2*. Summer 2024. Cabinet for Health and Family Services. Page 38.

⁵ Guidehouse Inc. *Summary Report and Benchmark Rates 1915(c) Home and Community Based Services Waiver Rate Study – Version 2*. Summer 2024. Cabinet for Health and Family Services. Page 44.

Version 2 to Version 3 or why such changes were made. This lack of transparency calls the credibility of the Rate Study Report and the integrity of the public comment period into question. Stakeholders were not afforded a full 30 days to review Version 3 of the rate study. Additionally, stakeholders who submitted comments prior to Version 2's removal were not afforded ample time nor the opportunity to submit comments on Version 3 because the Cabinet failed to notify stakeholders that it amended the Rate Study Report.

- Based on our preliminary review of Version 2 and Version 3 of the Rate Study Reports, we believe that the Cabinet removed important fiscal analyses from the Rate Study Report when it created Version 3.

ISSUE: The Rate Study and Resulting Proposed Rates Were Not Inflated from the Original Anticipated Implementation Date of July 2023 to the New Anticipate Implementation of Q1 2025.

Neither Guidehouse nor the Cabinet have inflated the rates from July 2023 to the anticipated implementation period of Q1 2025. This is unacceptable given the significant inflation that currently plagues Kentuckians. Inflation from June 2023 to June 2024 was 3%. 2025 inflation is expected to be 2.3%.⁶

Guidehouse even acknowledge this in its rate study report when it noted, "Given that we [Guidehouse] inflated the rates to July 1, 2023 with an anticipated implementation date at the start of SFY 2024, DMS may also consider reviewing inflation on an annual or semi-annual basis to account for align with changing provider needs and market conditions as biennial state budgets are planned and requested."

ISSUE: The Cabinet Did Not Address Future Inflation With the Rate Study

Neither the Rate Study, the rate methodology, nor the waiver applications contain a plan to ensure that Kentucky's 1915(c) Waiver reimbursement rates will remain sufficient. The proposed benchmark rates will be approximately 1.5 years out of date when the rate study is implemented. This means that at implementation, Kentucky's 1915(c) Waiver services will be underfunded⁷.

Once set, reimbursement rates will remain stagnant for the foreseeable future. Because 1915(c) waiver services are 100% reimbursed by the Medicaid program, providers have no

⁶ United States Government. The Federal Reserve. (2024) *Summary of Economic Projections*.

⁷ Due to both the out of date benchmark rates and the proposed 70% implementation.

ability to adjust prices to keep up with inflation. According to the CMS Market Basket Index for Institutional Psychiatric Facilities, the cost of delivering services to will continue to increase in the coming year.⁸ The forecast for Q1 2025, 2026, and 2027 are: 3.4%, 3.0%, and 2.9%, respectively. **By 2028, Kentucky's 1915(c) benchmark waiver rates will be at a minimum, 13% underfunded.**⁹

ISSUE: The Rate Study Report Contains Significant Errors Related To Wage Inflation

Guidehouse incorrectly reported that the wages used to determine the benchmark rates were inflated to 2023. In the Rate Study Report, Guidehouse reported that, “DMS leveraged an inflation rate of 7.65% to inflate wage data from February 2022 to July 2023.”¹⁰ This is simply untrue. The tables below illustrate that the wages to calculate the benchmark rates were not inflated beyond February 2022.

Figure 1 and Figure 2 were taken from a slide deck presented by Guidehouse at the June 2022 meeting of the rate study workgroup. During this meeting, Guidehouse discussed how it would inflate wages for the rate study and presented a preview of those wages. During the meeting, Guidehouse explained that it used 2021 BLS data for its wage analysis and inflated that 2021 data to February 2022 using a 7.76% inflation factor. Additionally, Guidehouse explained that wages would need to be inflated a second time “later on in the rate study”.¹¹ This second adjustment would inflate the wages used to inform the rate study from February 2022 to the expected implementation date.

Figure 1 is the wage table presented during the June 2022 Rate Study Work Group Meeting. Figure 1 shows the results of 2021 BLS data inflated to February 2022.

Figure 1: 2022 Guidehouse Proposed Hourly Wages¹²

⁸ The Cabinet reports in its Waiver Applications that it uses the CMS Market Basket Index for Institutional Psychiatric Facilities to trend and forecast Medicaid Waiver expenditures. To align with the Cabinet, KAPP has chosen to use this index over the Consumer Price Index for this discussion point.

⁹ Given that the benchmark rates have only been inflated to 2023, KAPP included a 2024 inflation adjustment (4.0%) utilizing the CMS Market Basket Index for Institutional Psychiatric Facilities

¹⁰ Guidehouse Inc. *Summary Report and Benchmark Rates 1915(c) Home and Community Based Services Waiver Rate Study – Version 2*. Summer 2024. Cabinet for Health and Family Services. Page a12.

¹¹ Kentucky Department for Medicaid Services. “1915(c) HCBS Work Group Meeting #5.” *YouTube*, June 22, 2022. <https://www.youtube.com/watch?v=hCTSAqNTX2U&list=PLKd8Ibu6xngHPwjkoYz9XpEHYIOUb1FbA&index=2>

¹² *June 2022 Rate Study Work Group Meeting* [PowerPoint Slides]. Cabinet for Health and Family Services. Slide 28. <https://www.chfs.ky.gov/agencies/dms/dca/rs/RSWGPresentation5.pdf>

Job Type	Preliminary 2022 Hourly Wage
Behavioral Support Specialist/Behavioral Analyst	\$51.70
Case Manager/Care Coordinator (billable)	\$24.84
Chef/Cook	\$14.89
Dietician	\$31.11
Direct Support Professional (DSP)	\$15.68
Driver	\$14.02
Employment Specialist	\$22.86
Financial Manager	\$22.82
Licensed Practical Nurse (LPN)	\$25.32
Registered Nurse (RN)	\$36.12
Respiratory Therapist	\$29.64
Support Broker	\$24.84

Figure 2 is a slide presented at the June 2022 Rate Study Work Group Meeting. Figure 2 clearly outlines that the 2022 Guidehouse Proposed Hourly Wages shown in Figure 1 were inflated from May 2021 to February 2022.

Figure 2: June 2022 Guidehouse Inflation Sources Comparaison¹³

Inflation Sources Comparison			
	Consumer Price Index	Producer Price Index	Current Employment Statistics
Advantages	<ul style="list-style-type: none"> Most widely used inflationary measure 	<ul style="list-style-type: none"> Most representative of the target population – includes Medicaid-specific data and services similar to HCBS Reflects the costs of providing services 	<ul style="list-style-type: none"> Focuses on employment and wages Includes services similar to HCBS
Disadvantages	<ul style="list-style-type: none"> Data represents broad US population, not specific to the rate study's target populations or services Reflects the costs to the consumer of buying goods 	<ul style="list-style-type: none"> Index of costs as a whole, not specific to wage growth only 	<ul style="list-style-type: none"> Data includes overtime and supplemental pay, which may over-estimate base wage changes
Average Inflation (Across selected categories; May 2021 to Feb 2022)	5.39%	3.35%	7.76%

Figure 3 was taken from the Rate Study Report, which was created and finalized in 2024. Figure 3 outlines the wages that were used to create Kentucky's benchmark reimbursement rates.

¹³ June 2022 Rate Study Work Group Meeting [PowerPoint Slides]. Cabinet for Health and Family Services. Slide 28. <https://www.chfs.ky.gov/agencies/dms/dca/rs/RSWGPresentation5.pdf>

Figure 3: 2024 Guidehouse Rate Study Report Proposed Hourly Wages¹⁴

Table 1. Proposed Hourly Wages, Before Benefits, by Job Type

Job Type	Proposed Hourly Wage
Behavioral Support Specialist/Behavioral Analyst	\$51.70
Case Manager/Care Coordinator (billable)	\$24.84
Chef/Cook	\$14.89
Dietician	\$31.11
Direct Support Professional (DSP)	\$15.68
Driver	\$14.02
Employment Specialist	\$22.86
Financial Manager	\$22.82

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Job Type	Proposed Hourly Wage
Licensed Practical Nurse (LPN)	\$25.32
Registered Nurse (RN)	\$36.12
Respiratory Therapist	\$29.64

If the wages proposed in the Rate Study Report were inflated using inflation rate of 7.65% to inflate wage data from February 2022 to July 2023, as Guidehouse claims, the 2024 wages would be higher than the 2022 Proposed Wages. The 2022 and 2024 wages are identical. The wages used to inform the Rate Study were not inflated beyond 2022.

¹⁴ Guidehouse Inc. *Summary Report and Benchmark Rates 1915(c) Home and Community Based Services Waiver Rate Study – Version 2*. Summer 2024. Cabinet for Health and Family Services. Pages 13-14.