

1 A CONCURRENT RESOLUTION establishing the 1915(c) Home and Community
2 Based Services Waiver Redesign Task Force.

3 WHEREAS, the 1915(c) Home and Community Based Services (HCBS) waivers
4 are essential Medicaid services designed to give individuals with disabilities an
5 alternative to institutionalization and allow individuals to live safely in their
6 communities; and

7 WHEREAS, Kentucky currently operates six different 1915(c) HCBS waivers,
8 including the Acquired Brain Injury waiver, the Acquired Brain Injury Long-term Care
9 waiver, the Home and Community Based waiver, the Model II waiver, the Michelle P.
10 waiver, and the Supports for Community Living waiver; and

11 WHEREAS, more than 26,000 Kentuckians are currently enrolled in one of the six
12 1915(c) HCBS waivers; and

13 WHEREAS, more than 10,000 Kentuckians are currently on waiting lists for
14 1915(c) HCBS waiver services with an average wait time for some programs exceeding
15 five years; and

16 WHEREAS, federal law requires that Kentucky provide waiver participants with
17 the same level of care in the community as they would receive in an institution; and

18 WHEREAS, a robust 1915(c) HCBS waiver system requires viable providers to
19 provide needed services; and

20 WHEREAS, Kentucky could increase 1915(c) HCBS waiver expenditures without
21 violating the federal Centers for Medicare and Medicaid Services budget neutrality
22 requirements; and

23 WHEREAS, the Department for Medicaid Services acknowledges that the Cabinet
24 for Health and Family Services lacks funds to meet current 1915(c) HCBS waiver
25 demands or address future growth in demand; and

26 WHEREAS, the Cabinet for Health and Family Services began efforts to improve
27 and enhance the 1915(c) HCBS waivers in February 2017 and paused efforts to redesign

1 the waiver programs in January of 2020; and

2 WHEREAS, the Cabinet for Health and Family Services has requested to
3 collaborate with the General Assembly on 1915(c) HCBS waiver redesign efforts;

4 NOW, THEREFORE,

5 ***Be it resolved by the House of Representatives of the General Assembly of the***
6 ***Commonwealth of Kentucky, the Senate concurring therein:***

7 ➔Section 1. The Legislative Research Commission shall establish the 1915(c)
8 Home and Community Based Services Waiver Redesign Task Force to review previous
9 waiver redesign efforts undertaken by the Cabinet for Health and Family Services and to
10 develop recommendations to ensure the quality and stability of 1915(c) waiver services in
11 Kentucky.

12 ➔Section 2. The duties of the 1915(c) Home and Community Based Services
13 Waiver Redesign Task Force shall include, but are not limited to:

- 14 (1) Reviewing 1915 (c) HCBS waiver redesign efforts undertaken by the Cabinet
15 for Health and Family Services between February 2017 and January 2020;
- 16 (2) Reviewing the 1915(c) HCBS waiver assessment report produced by Navigant
17 Consulting in August 2018;
- 18 (3) Assessing the actual costs incurred by providers when providing 1915(c)
19 HCBS waiver services, including determining the actual reimbursement rate
20 that would be required to appropriately reimburse service providers. Cost and
21 budget neutrality concerns should not limit this examination so that the task
22 force can accurately determine the actual costs and level of funding necessary
23 to effectively provide 1915(c) HCBS waiver services in Kentucky;
- 24 (4) Examining 1915(c) HCBS waiver service funding and payment models which
25 allow service providers to provide the level of care necessary to support high-
26 intensity individuals;
- 27 (5) Examining cost data provided by direct service providers to assist in the

- 1 assessment of actual costs and examination of funding and payment models;
- 2 (6) Exploring possible funding options to offset anticipated future federal
3 minimum wage increases;
- 4 (7) Exploring possible funding options to increase the wages of direct support
5 professionals and other caregivers to at least \$15.00 per hour;
- 6 (8) Assessing which critical outcomes can be measured and used to improve
7 1915(c) HCBS waiver service outcomes;
- 8 (9) Assessing how federal, state, and local resources are currently being utilized
9 to optimize outcomes and identifying how resources can be better coordinated
10 or redirected to improve the provision of waiver services;
- 11 (10) Studying the costs associated with and potential impacts of implementing or
12 contracting for long-term crisis intervention services;
- 13 (11) Studying alternatives to institutionalized care and strategies for reducing the
14 number of individuals currently residing in institutions;
- 15 (12) Studying the costs associated with and potential impacts of implementing a
16 children's waiver;
- 17 (13) Making recommendations to create efficiencies within the Cabinet for Health
18 and Family Services to ensure that individuals receive high-quality support
19 when they are needed without delay or interruption;
- 20 (14) Making recommendations to create efficiencies within the Cabinet for Health
21 and Family Services that support quality care outcomes;
- 22 (15) Making recommendations for strategies to better support individuals with
23 complex medical needs; and
- 24 (16) Making recommendations for strategies to decrease the 1915(c) HCBS waiver
25 services waitlists.

26 ➔Section 3. The 1915(c) Home and Community Based Services Waiver Redesign
27 Task Force shall be composed of the following members with final membership of the

1 task force being subject to the consideration and approval of the Legislative Research
2 Commission:

3 (1) Two members of the House of Representatives appointed by the Speaker of
4 the House of Representatives, one of whom shall be designated by the Speaker of the
5 House of Representatives as a co-chair of the task force;

6 (2) One member of the House of Representatives appointed by the Minority Floor
7 Leader of the House of Representatives;

8 (3) Two members of the Senate appointed by the President of the Senate, one of
9 whom shall be designated by the President of the Senate as a co-chair of the task force;

10 (4) One member of the Senate appointed by the Minority Floor Leader of the
11 Senate;

12 (5) The secretary of the Cabinet for Health and Family Services, or designee;

13 (6) The commissioner of the Department for Medicaid Services, or designee;

14 (7) The commissioner of the Department for Behavioral Health, Developmental
15 and Intellectual Disabilities, or designee;

16 (8) The commissioner of the Department for Aging and Independent Living, or
17 designee;

18 (9) The executive director of the Kentucky Association of Adult Day Care
19 Centers, or designee;

20 (10) The executive director of the Kentucky Association of Private Providers, or
21 designee;

22 (11) The executive director of the Kentucky Association of Regional Programs, or
23 designee;

24 (12) The executive director of LeadingAge Kentucky, or designee;

25 (13) The executive director of the Commonwealth Council on Developmental
26 Disabilities, or designee;

27 (14) The board chair of the Kentucky Chapter of the Brain Injury Association of

1 America, or designee;

2 (15) One acquired brain injury advocate submitted by the Kentucky Chapter of the
3 Brain Injury Association of America;

4 (16) One provider of Acquired Brain Injury waiver services and Acquired Brain
5 Injury Long-term Care waiver services submitted by the Kentucky Chapter of the Brain
6 Injury Association of America;

7 (17) One private duty nurse who provides Model II waiver services submitted by
8 the Kentucky Nurses Association;

9 (18) One Home and Community Based waiver services provider submitted by the
10 Kentucky Association of Adult Day Care Centers; and

11 (19) One Supports for Community Living waiver services provider submitted by
12 the Kentucky Association of Private Providers.

13 ➔Section 4. The General Assembly encourages the Cabinet for Health and Family
14 Services and the Department for Medicaid Services to postpone any waiver service rate
15 decreases until at least July 1, 2023.

16 ➔Section 5. The 1915(c) Home and Community Based Services Waiver Redesign
17 Task Force shall meet monthly during the 2021 and 2022 interims of the General
18 Assembly and shall submit findings and recommendations to the Legislative Research
19 Commission for referral to the appropriate committee or committees by December 1,
20 2022.

21 ➔Section 6. Provisions of this Resolution to the contrary notwithstanding, the
22 Legislative Research Commission shall have the authority to alternatively assign the
23 issues identified herein to an interim joint committee or subcommittee thereof, and to
24 designate a study completion date.