



Department
of Health

Office of
Mental Health

Office of Addiction
Services and Supports

Office of Children
and Family Services

Office for People With
Developmental Disabilities

State Discussion with Children's Waiver HCBS Providers

February 2024

Purpose

- For the Department of Health (DOH) to share updates, guidance, and policy changes, and obtain feedback from Home and Community Based Services (HCBS) providers.
- Provide an opportunity for HCBS providers to discuss barriers and be a part of the problem-solving discussion.
- Have an open dialogue to communicate issues and concerns.

Agenda

- ✓ HCBS Eligibility & Enrollment Guidance
- ✓ PHE Unwind
- ✓ Federal Information Processing Standard Publication (FIPS)/County Locator Codes
- ✓ HCBS Authorization & Referral Form Updates
- ✓ HCBS Discharge and Disenrollment Notifications
- ✓ HCBS Final Rule Compliance Reviews for Newly Designated Providers/Sites
- ✓ Update on the Waiver Amendment/Approval

Eligibility & Enrollment Guidance

Eligibility & Enrollment Policy

DOH recently updated and posted the HCBS Waiver Eligibility and Enrollment Policy (CW0005).

This policy outlines the steps that Health Home Care Managers (HHCM)/Children and Youth Evaluation Services (C-YES) must take to determine eligibility and enroll children/youth in the Children's Waiver.

The Waiver Enrollment criteria are categorized into **Target Populations**, each with distinct criteria, which must be met for the child to be determined eligible for waiver enrollment. The policy outlines the **Qualifying Condition, Risk Factors, Functional Criteria, and documentation requirements** for each Target Population:

1. Serious Emotional Disturbance (SED)
2. Medically Fragile (MF)
3. Developmental Disability and Medically Fragile (DD/MF)
4. Developmental Disability and in Foster Care (DD/FC)

Eligibility & Enrollment Policy

Provider-specific **updates** to the Eligibility and Enrollment policy are as follows:

As providers receive referrals from care managers, the provider should ensure that the child's **history and service needs are in alignment with eligibility requirements**, as it is everyone's responsibility to serve eligible members.

If the child/youth is **no longer at risk of institution/out-of-home placement** during the course of service provision, then the provider must **begin discussions regarding discharge from HCBS** and communicate with all involved parties accordingly.

Receipt of mental health services is a requirement of the Serious Emotional Disturbance (SED) Target Population; as such, HCBS providers should be in communication with mental health providers and/or provide additional support for authorization needs.

HCBS LOC Eligibility Announcement

DOH recently issued an announcement on [Overdue HCBS Level of Care \(LOC\) Eligibility Determinations](#) requiring that overdue LOCs be completed by February 15, 2024. Below is the guidance that accompanied this announcement:

CMs should begin the HCBS Eligibility Determination **two months prior** to the annual reassessment due date and ensure that impacted parties, including HCBS providers, are aware of the Determination requirements and due date.

The **multidisciplinary team** should work collaboratively to ensure that the participant has a current HCBS Eligibility Determination with all required supporting documentation to remain in the Children's Waiver, if the child continues to be at risk of institutionalization.

Before starting to provide services, **providers must check ePACES or eMedNY** to confirm the child/youth has active K-codes. Providers may still provide and bill services for backdated K-codes, as long as the K-codes were active during the date of service.

CMs will let providers know if an assessment is being conducted. If a member is determined ineligible and has filed a request for a Fair Hearing with aid to continue, the CM's supervisor must enter that information within UAS to make MMCPs aware that services/payment can continue. HCBS Providers should connect with CMs if they have eligibility questions.


PHE Unwind

PHE Unwind


The following items have been **unwound for HCBS providers** (effective February 11, 2024):



All HCBS must be **delivered in-person** to the member in an allowable setting as outlined in the [HCBS Provider Manual](#).



All Reportable Incidents must be reported as outlined in the policy for HCBS providers [CW#0004](#) with final reporting completed within 30 days of the incident.



The requirement to provide a monthly service is **no longer waived**. Each eligible and enrolled Children's Waiver member must receive **at least one monthly HCBS** to remain enrolled in the Children's Waiver, unless the member has "Family of One" Medicaid and is receiving HH comprehensive care management as their only monthly service.

PHE Unwind

Effective February 11, 2024, HCBS is no longer permitted to be provided via telehealth.

Authority to provide HCBS via telehealth under the Children's Waiver ended **November 11, 2023**.

If DOH were to request authority from CMS to provide telehealth, they would need to include the following information in the definition of the service for which the state is using telehealth for service delivery:

A description of how:

1. The remote service will be delivered in a way that respects the privacy of the individual, especially in instances of toileting, dressing, etc.;
2. The telehealth service delivery will facilitate community integration;
3. Telehealth will ensure the successful delivery of services for individuals who need hands on assistance/ physical assistance, including whether the service may be rendered without someone who is physically present or by someone who is separated from the individual;
4. The state will support individuals who need assistance with using the technology required for telehealth delivery of the service;
5. The telehealth service delivery will ensure the health and safety of an individual.

FIPS/County Locator Codes



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FIPS/County Locator Codes

September - November

Providers received **rate load letters** from eMedNY confirming rate loads to their **new** county locator codes.

January


Providers received a letter from eMedNY that the dollar amount on their **old** locator codes was set to \$0. Providers are no longer able to bill using these old locator codes.

Providers should refer to the county locator code **rate load letters** for confirmation of rate loads and ***follow the updated FIPS/County Locator Code billing guidance when submitting claims.***


The letters issued in January do not indicate that the provider has been de-designated and/or that they are no longer able to bill.

Providers should follow the updated [FIPS/County Locator Code Billing Guidance](#) when submitting claims.


Reminders: HCBS Provider Designation for Services & Counties




HHCMs and C-YES need to refer members **based upon the member's MMCP** and to HCBS providers **designated in the member's county**.




Prior to accepting a referral, HCBS providers need to ensure that the member **lives in the county** the HCBS provider is designated to serve.



HCBS providers are only allowed to serve members who **live in the counties they are designated** to serve.



HCBS providers are only allowed to provide the services **that they are designated** to provide.



HCBS providers should be connecting with the participant's HHCM/C-YES when the **participant needs additional services outside of those that were referred to the agency**.

Authorization & Referral Form Updates



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HCBS Authorization & Referral

HCBS Authorization and Referral Forms have been updated and issued, along with an Authorization Form Instructional Guide, which were issued on February 16, 2024. **Updated Forms must be used for any Referrals/Authorizations initiated on or after February 19, 2024.**

HCBS Referral Form

- Expansion of Parent/Guardian/Legally Authorized Representative (P/G/LAR) information
- Expansion of allowance for CM/C-YES to elaborate on needs and goals for the participant
- Designed to mesh with the online Referral Portal once released

HCBS Authorization Form

- Expansion of P/G/LAR information
- Second procedure code under each authorization request added
- Area to provide rationale for the authorization request
- Emphasis on SMART goals and actionable objectives for each HCBS
- Designed to mesh with the online Authorization Portal once released

Authorization Form Instructional Guide

- Document released with the Authorization form to guide Providers on:
 - Steps to complete the form
 - Guidance on setting HCBS frequency/scope/duration
 - Guidance on setting SMART Goals
 - Guidance on authorizations for Caregiver Family Advocacy and Support Services (CFASS)

DOH plans on moving forward with electronic versions of these forms during the launch of the Electronic Referral Portal in Spring 2024. Feedback received on the recently released forms will be used to inform development of the electronic versions.

HCBS Referral Form – *Updated and Issued February 16, 2024*

The HCBS Referral Form is used by HHCM/C-YES to refer participants to HCBS. The following is a sample of fields in the updated HCBS Referral Form.

HCBS # 2 Referral Request

Please select Children's Waiver HCBS being requested/included in this notice:

- | | |
|--|---|
| <input type="checkbox"/> Community Habilitation | <input type="checkbox"/> Supported Employment |
| <input type="checkbox"/> Day Habilitation | <input type="checkbox"/> Respite Services (Specify below between Planned and/or Crisis) |
| <input type="checkbox"/> Caregiver/Family Advocacy and Supports Services | <input type="checkbox"/> Palliative Care (Specify below between: Massage Therapy, Counseling and Supports Services, Expressive Therapy, or Pain and Symptom Management) |
| <input type="checkbox"/> Prevocational Services | |

Need identified to be addressed and Desired Goal for the identified HCBS:
Family Preferences (Staff Gender/Primary Language, Evening/Weekend Appointments, Time of Day, Group/individual services)

Other services member is receiving related to this goal (if applicable)

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HCBS Authorization Form – Updated and Issued February 16, 2024

The HCBS Authorization Form is used by HCBS Providers to request authorizations for HBCS in alignment with a participant's Plan of Care (POC) and service needs. The following is a sample of fields in the updated HCBS Referral Form.

Please select the Children's Waiver HCBS being requested/included in this notice.

- | | |
|--|---|
| <input type="checkbox"/> Community Habilitation | <input type="checkbox"/> Supported Employment |
| <input type="checkbox"/> Day Habilitation | <input type="checkbox"/> Respite Services (Specify below between Planned and/or Crisis) |
| <input type="checkbox"/> Caregiver/Family Advocacy and Supports Services | <input type="checkbox"/> Palliative Care (Specify below between Massage Therapy, Counseling and Support Services, Expressive Therapy, and/or Pain and Symptom Management) |
| <input type="checkbox"/> Prevocational Services | |

HCBS #1	Start date (1 st service visit)	Start date for this authorization period	Frequency	Scope	Duration	Explanation of variation in schedule (if applicable)
Procedure Code						
Procedure Code						

Modality (Check all that apply): Individual

Group

If requesting **both** modalities, please note which F/S/D is associated with each modality on the lines provided above.

Goals and Objectives

Clearly state S.M.A.R.T. goals the child's/youth's/family has identified and list specific objectives/interventions for the period of requested services. Goals must accurately reflect the participant's approved Plan of Care. Objectives should be results-oriented, measurable steps towards the overall goal that can be achieved within the requested period of services and delivered as allowable by the service definition in the HCBS manual.

Goal 1
Objective 1 – Is this objective: <input type="checkbox"/> New <input type="checkbox"/> Partially Met <input type="checkbox"/> Not Met <input type="checkbox"/> Met
Objective 2 – Is this objective: <input type="checkbox"/> New <input type="checkbox"/> Partially Met <input type="checkbox"/> Not Met <input type="checkbox"/> Met
Objective 3 – Is this objective: <input type="checkbox"/> New <input type="checkbox"/> Partially Met <input type="checkbox"/> Not Met <input type="checkbox"/> Met

A supplemental Instructional Guide has also been created to accompany the updated HCBS Authorization Form.

HCBS Discharge and Disenrollment Notifications



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HCBS Discharge and Disenrollment Notifications

In preparation for the development of the electronic HCBS Authorization Process, DOH requested **feedback** from HCBS Providers, Health Homes, and MMCPs (as of February 9, 2024):

**How are providers notifying
Plans/CMS of discharge from agency
currently?**

Email, Phone, Fax, No Notification

**How are Care Managers notifying
Plans/HCBS providers of
disenrollment from HCBS?**

Email, Phone, No Notification

**Would a State-provided standardized
form/process
for HCBS Discharge be beneficial?**

Yes

**Would a State-provided standardized
form/process for HCBS Disenrollment
be beneficial?**

Yes

HCBS Discharge Notification Discussion

In preparation for the development of the electronic HCBS Authorization Process, DOH requested **feedback** from HCBS Providers, Health Homes, and MMCPs (as of February 9, 2024):

Would there be any challenges/concerns with standardizing this process in the IRAMS? If so, please explain.

- Lack of access to IRAMS, may require staff access/onboarding
- An additional system that would require constant monitoring
- May slow down the process by adding an additional step

Are there challenges with obtaining authorizations for HCBS participants who have an existing auth with one HCBS provider, but are discharged and have a new provider?

- CMs not informing Plans that members have been referred and/or discharged until authorization has been submitted
- CMs not indicating date of discharge and lack of overall communication

Any other HCBS discharging/disenrollment feedback?

- Would like a standardized form with timeframes and notification expectations related to discharge/disenrollment
- Barriers with some providers sending disenrollments from 2022, recalls, and bulk disenrollments
- Would like an outlined transition plan

DOH plans to implement a standardized **Disenrollment Form** and **Discharge Form**. The details will be included in the HCBS Discharge policy which is currently in development. DOH plans to add these processes into IRAMS in the future.

Discharge – Is used when a specific HCBS has ended. This could occur if the member no longer needs/wants the service, the service is no longer appropriate to meet the member's needs, or the member was successful in meeting the goals of the service.

Disenrollment – Is used when indicating that the member is no longer enrolled in the Children's Waiver and all HCBS due to being found ineligible upon re-assessment, the member went to an institutional level of care more than 90 days, the member no longer has Medicaid, or the member wanted to leave the Children's Waiver.

Reminder: All parties (plans/providers/CMs) must continue to communicate about Eligibility and Enrollment while DOH works on the form to facilitate this.

HCBS Final Rule Compliance Reviews for Newly Designated Providers/Sites



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Final Rule Compliance Reviews for Newly Designated HCBS Providers/Sites

All newly designated HCBS providers will be required to comply with a HCBS Final Rule compliance review.

- The DOH Children's HCBS Final Rule Team is currently conducting Final Rule compliance reviews with providers that were more recently designated.
- All HCBS providers must be compliant with the HCBS Final Rule and participate in the review process with the DOH Children's HCBS Final Rule Team to confirm compliance.
 - Any current HCBS providers that have not participated in this review should contact ChildrensWaiverHCBSFinalRule@health.ny.gov
 - Information and resources regarding HCBS Final Rule requirements are located on the *HCBS Settings Rule* drop-down on the [Children's Home and Community Based Services \(HCBS\) Waiver Provider Information](#) page
- As a reminder, any provider that is adding a new site and/or changing the address of a current site must submit a new [Final Rule Provider Self-Assessment survey](#) for the newly designated site.
- Further information regarding DOH's ongoing compliance monitoring efforts will be forthcoming.

General Final Rule Requirements

The Final Rule compliance deadline was **March 2023** for previously designated providers and describes how Medicaid-funded HCBS are to be delivered. The settings [requirements](#) are outlined as follows:

As part of the **settings component** of the HCBS Final Rule, CMS established:

1. Requirements for settings where HCBS can be provided and
2. The heightened scrutiny process that sites would need to undertake if located in a building or on the grounds of a facility that is also providing inpatient institutional treatment or is otherwise presumed institutional under the rule.

According to CMS, settings that **DO NOT MEET** the definitions of being home and community based are:

1. A nursing facility;
2. An institution for mental diseases;
3. An intermediate care facility for individuals with intellectual disabilities;
4. A hospital; or
5. Any other locations that have qualities of an institutional setting, as determined by the Secretary.

Final Rule specifies that the following settings are presumed to have the qualities of an institution and **do not meet** the HCBS standard:

1. Any setting that is located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment
2. Any setting that is located in a building on the grounds of, or immediately adjacent to, a public institution; or
3. Any other setting that has the effect of isolating individuals receiving Medicaid HCBS

For more information regarding Final Rule requirements, please visit our [website](#).

Update on Waiver Amendment/Approval



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Waiver Amendment Updates

Effective 11/1/2023

****Cost of Living Adjustment (COLA)**

- Adds language to address prospective Cost of Living Adjustments (COLA).
- Includes the permanent adoption of the 25% and 5.4% COLA rate increases that were implemented during the Public Health Emergency (PHE) for HCBS providers.
- Implements an additional 4% COLA, per the 2023-2024 NYS Enacted budget.

****Group Respite Rate Revision**

- The size of allowable groups for the currently established Group Respite is no more than 3 children/youth.
- The amendment establishes a new rate for Group Respite involving two children/youth.

Single Point of Access (SPOA) Mental Health Connection

- The amendment updates the qualifications of professionals permitted to perform HCBS Level of Care Eligibility Determinations to include C-SPOA through the Local County Departments of Mental Health for children/youth meeting Serious Emotional Disturbance (SED) criteria.

***Both these items are awaiting NYS DOB approval. Once all State approvals are received, an announcement to Plans and Stakeholders will be issued*

Waiver Amendment Updates – *cont.*

Effective 11/1/2023

Palliative Care Qualification & Definition Adjustment

- The amendment removes references to “life threatening”, “terminal” and “end of life” in all Palliative Care service definitions.
 - The references to Bereavement Counseling and Support Services after the passing of a child and End-of-Life per episode payments remain in Palliative Care: Counseling and Support Services.
- The amendment adjusts Palliative Care provider qualifications to reduce the years of experience required to serve the medically fragile pediatric populations from three years to one year to improve workforce availability. This includes:
 - Palliative Care – Massage Therapy
 - Palliative Care – Pain and Symptom Management
 - Palliative Care – Counseling and Support Services
 - Palliative Care – Expressive Therapy

Driver Vehicle Modifications

- Includes driver modifications as a component within the Vehicle Modification service description with an annual cap of \$65,000.

Waiver Amendment Updates – *cont.*

Effective 12/1/2023

****Rural Rates**

- The amendment authorizes higher rates for HCBS provided in seven rural counties: Allegany, Clinton, Delaware, Essex, Franklin, Hamilton, and St. Lawrence.

***Pending NYS DOB approval.*

**New Amendment –
Tentative Effective
Date 3/1/24**

Pending Approval:

Transition of Environmental Modifications (EMod), Vehicle Modifications (VMod), Adaptive and Assistive Technology (AT) to a Financial Management Services (FMS)

- *In collaboration with CMS, approval of the FMS is dependent upon a submission of another amendment. This amendment has been submitted to CMS with a proposed effective date of March 1, 2024*

Future Meetings & Contact Information



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Future Meetings & Agenda Items

- Next Scheduled Monthly Meetings:
 - *March 20th, 2024, from 1:00 PM – 2:30 PM*
 - *Registration Link:*
<https://meetny.webex.com/weblink/register/rb39fb266acd33bcdb7fb1ff07d90b264>
 - *April 17th, 2024, from 1:00 PM – 2:30 PM*
 - *Registration Link:*
<https://meetny.webex.com/webappng/sites/meetny/meeting/register/3c2db879319d4214a617699abd3cb2d3?ticket=4832534b0000000695bd412ac6bf67cd80fd247916cdf0b7bd012d3122bc01a2a31260355de52b33×tamp=1704473700313&RGID=r6ed90ce39aa1287e4b88a38418f2e643>
 - *May 15th, 2024, from 1:00 PM – 2:30 PM*
 - *Registration Link:*
<https://meetny.webex.com/webappng/sites/meetny/meeting/register/0355b00d269f4be18993b5def53d0716?ticket=4832534b00000006988052353838aabfb4881b9f3bb7efa42f9a76c6cca2efe713c49826ac35deec×tamp=1706211503974&RGID=r0e9f65e5d9f69ebd2fa6eef508d47bd8>
- DOH would like to discuss topics of interest to the HCBS providers and also hear suggestions and ideas for improvement.
- Please submit your agenda requests, suggestions, or questions to BH.Transition@health.ny.gov.

All Children's Waiver HCBS questions and concerns, should be directed to the NYS Department of Health at BH.Transition@health.ny.gov mailbox or (518) 473-5569.

Questions regarding the HCBS Settings Final Rule can be directed to ChildrensWaiverHCBSFinalRule@health.ny.gov .

New York State Department of Health Managed Care Complaint Line
1-800-206-8125 or managedcarecomplaint@health.ny.gov .



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