**Application for a §1915(c) Home and Community-Based Waiver [Version 3.7]**

**CMS Instrument for Reviewing HCBS Waiver Applications**

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**Medicaid Benefits Health Programs Group**

**Center for Medicaid and CHIP Services**

**Centers for Medicare & Medicaid Services**

**Department of Health and Human Services**

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**CMS Instrument for**

**Reviewing State 1915 (c) HCBS Waiver Applications**

**Introduction**

CMS worked closely with the National State Associations to develop the 1915(c) HCBS waiver application. The HCBS waiver application was designed to solicit more complete information from states about the design of their waiver program so that CMS might better determine whether a state’s proposed waiver has the capacity to meet the requirements and assurances satisfactorily.

With this application, CMS established the information it requires to determine whether a state waiver application provides the required assurances, including a systematic approach to reviewing waiver applications. The *“The CMS Instrument for Reviewing State 1915 (c) HCBS Waiver Applications” (The Review Instrument)* was developed to assist CMS waiver analysts in their review of waiver applications and to build consistency into the application review process.

The purpose of The Review Instrument is to:

* Assist CMS waiver analysts in making a determination whether the design of a state’s waiver program is adequate; and
* Provide a format for the written record of the review of applications.

Based on the design elements of the 1915(c) HCBS Waiver Application, The Review Instrument is intended to assure a thorough assessment of each state waiver application; to provide standard criteria for making a determination that a state’s program design will “protect the health and welfare of individuals provided services under the waiver and to assure financial accountability for funds expended with respect to such services;”[[1]](#footnote-1) and to provide a format to record whether all necessary information has been provided and reviewed.

The *CMS Review Instrument* will be applied, regardless of the application format used, in the review of all new waiver applications, renewal applications and any amendments that substantially alter the waiver.

CMS Waiver analysts are required to review each state’s application against the same review criteria. Information that is not available in the state’s application may be requested by the CMS waiver analyst.

***The Review Instrument* is primarily for the purposes of guiding waiver analysts in the review process and providing easy access to the established review criteria. The completed instrument should be retained by the analyst as a record of their review and documentation of the decisions that support their recommended actions on a waiver application.**

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# Instrument for Reviewing 1915 (c) Waiver Applications

# Module 1

|  |  |  |
| --- | --- | --- |
| **1. Request Information** | | **Analyst Notes** |
| **1-A: State**  **1-B: Waiver Title** | Does the state specify the waiver’s title, if it has one?  Yes  No |  |
| **1-C: Type of Request** | * **Did the state specify the type of request (i.e., new waiver, renewal, amendment) has been specified by the state?**   Yes  No   * **For new waivers, did the state indicate the requested approval period (i.e., 3 years or 5 years)?**   Yes  No |  |
| **Transition Plan**  *(Complete only when according to the instructions a transition plan is required.)* | When a transition plan is required:   * Does the state’s transition plan (Attachment #1) describe the similarities and differences between the services covered in the approved waiver and those covered in the new or renewed waiver?  Yes  No * When services in the approved waiver will not be offered in the new or renewed waiver, or will be offered in a lesser amount, does the plan describe how the health and welfare of persons who receive services through the approved waiver will be assured?  Yes  No * Does the plan state whether persons served in the existing waiver will also be eligible to participate in the new waiver?  Yes  No * When the new or renewed waiver includes limitations on the amount of waiver services that were not included in the approved waiver, does the plan describe how the limitations will be implemented?  Yes  No * When persons served in the approved waiver will not be eligible to participate in the new or renewed waiver, does the plan describe the steps that the state will take to facilitate the transition of affected individuals to alternate services and supports that will enable the individual to remain in the community?  Yes  No * Does the plan include the time table for transitioning individuals to the new waiver (i.e., will participants in the existing waiver transition to the new waiver all at the same time or will the transition be phased in?)?  Yes  No * Does the plan describe how the participant is informed of the opportunity to request a Fair Hearing?  Yes  No |  |
| **1-D: Type of Waiver** | Is this waiver a:  **Model** waiver? The state assures that no more than 200 individuals will be served at any one time.  Or a **Regular** waiver? |  |
| **1-E.1: Proposed Effective Date**  **E.2: Approved Effective Date** | Does the state indicate appropriate proposed effective date?  Yes  No  ***Note:*** *In order to facilitate annual data reporting,* ***new waivers*** *should be structured with effective dates on the first day of the month or the beginning of a calendar quarter. For* ***renewal applications or new waivers that replace existing waivers****, the proposed effective date should be the day after the existing waiver expires.* |  |
| **1-F: Level(s) of Care** | * Does the state’s proposed level(s) of care complies with 42 CFR § 441.301(a)(3)?   Yes  No   * Does the state’s proposed level(s) of care align with the target group definition contained in Appendix B-1?   Yes  No   * If applicable, does the state specify whether it limits the waiver to subcategories that are contained in the approved state Plan?  Yes  No  N/A |  |
| **1-G: Concurrent Operation with Other Programs**    *(Complete only if the state has indicated that this waiver operates concurrently or in tandem with another program authorized under the Act.)* | In the case of a new concurrent §1915(b)/§1915(c) waiver:   * Have both waiver applications been submitted simultaneously and do they have the same proposed effective dates?  Yes  No * Has the §1915(b) waiver been approved?  Yes  No   ***Note:*** *Approval of the §1915(c) waiver is contingent on the approval of the concurrent §1915(b) waiver.* |  |
| **2. Brief Waiver Description** | | **Analyst Notes** |
|  | Does the state’s description include discussion of the program’s:  Purpose?  Goals?  Objectives?  Organizational structure? and  Service delivery methods?  ***Note:*** *This is just a general description and is not intended to be comprehensive. Look to specific appendices for specific information.* |  |
| **3. Components of the Waiver Request** | | **Analyst Notes** |
| Refer to Module 1 of the Waiver Application for complete list of all the components of a waiver application.  Item E (Participant Direction of Services) is the only item states are required to respond to. | Does the waiver provide for participant direction of services?  Yes  No |  |
| **4. Waiver(s) Requested** | | **Analyst Notes** |
| **4-A: Comparability** | No response required. |  |
| **4-B: Income and Resources for the Medically Needy** | Is the state requesting a waiver of §1902(a)(10)(C)(i)(III) of the Act in order to use institutional income and resource rules for the medically needy?  Yes  No  If Yes, the following questions must be answered yes:   * Does the state cover the medically needy in the state Plan?  Yes  No * Does the state include the medically needy in the eligibility groups that may receive waiver services as provided in Appendix B-4 of the application?  Yes  No |  |
| **4-C: Statewideness** | Is the state requesting a waiver of the statewideness requirements in §1902(a)(1) of the Act?  Yes  No  If Yes, the state has indicated its request to waive statewideness for:  Geographic Limitation  Limited Implementation of Participant Direction   * When a waiver of statewideness is requested to limit the operation of the waiver to regions or areas of the state or to implement participant direction of services in some but not all areas where the waiver is in effect, does the waiver clearly define the geographic areas where waiver services and/or participant direction will be available?  Yes  No N/A * Do waiver participants in the geographic areas where participant direction is available also have the choice to receive waiver services through the service delivery methods that are in effect elsewhere?  Yes  No |  |
| **5. Assurances**  *Refer to the Application for a complete description of the assurances.* | | **Analyst Notes** |
|  | No response required. |  |
| **6. Additional Requirements**  *Refer to the Application for a complete description of waiver requirements.* | | **Analyst Notes** |
| **6-A: Service Plan** | No response required. |  |
| **6-B: Inpatients** | No response required. |  |
| **6-C: Room and Board** | No response required. |  |
| **6-D: Access to Services** | No response required. |  |
| **6-E: Free Choice of  Provider** | No response required. |  |
| **6-F: FFP Limitation** | No response required. |  |
| **6-G: Fair Hearing** | No response required. |  |
| **6-H: Quality Management** | No response required. |  |
| **6-I: Public Input** | Does the state describe how it secures public input into the waiver development?  Yes  No |  |
| **6-J: Notice to Tribal Governments** | No response required. |  |
| **6-K: Limited English Proficiency Persons** | No response required. |  |
| **7. Contact Person(s)** | | **Analyst Notes** |
| **7-A: State Medicaid Agency Representatives** | Does the state indicate who CMS should communicate regarding the waiver?  Yes  No |  |
| **7-B: Operating Agency Representative**  *(Only complete if the state has indicated that the waiver will be administered by a state agency (as provided in Worksheet A) that is not part of the Medicaid agency.)* | Does the state indicate who CMS should communicate regarding the waiver?  Yes  No  N/A  ***Note:*** *The first line of communication between CMS and a state regarding a waiver application is through state Medicaid agency.* |  |
| **8. Authorizing Signature** | | **Analyst Notes** |
|  | Is the state’s waiver request signed by the state Medicaid Director or designee in the Medicaid agency?  Yes  No |  |
| **A. Attachments** | | **Analyst Notes** |
|  | Is the state requesting any changes that require a transition plan?  Replacing an approved waiver with this waiver.  Combining waivers.  Splitting one waiver into two waivers.  Eliminating a service.  Adding or decreasing an individual cost limit pertaining to eligibility.  Adding or decreasing limits to a service or a set of services, as specified in   Appendix C.  Reducing the unduplicated count of participants (Factor C).  Adding new, or decreasing, a limitation on the number of participants   served at any point in time.  Making any changes that could result in some participants losing   eligibility or being transferred to another waiver under 1915(c) or another   Medicaid authority.  Making any changes that could result in reduced services to participants.  If Yes, answer the following questions:   * The transition plan describes the similarities and differences between the services covered in the approved waiver and those covered in the new or renewed/amended waiver.   Yes  No  N/A * When services in the approved waiver will not be offered in the new or renewed/amended waiver or will be offered in lesser amount, the transition plan describes how the health and welfare of persons who receive services through the approved waiver will be assured.    Yes  No  N/A * The transition plan states whether persons served in the existing waiver also are eligible to participate in the new waiver.   Yes  No  N/A * When the new or renewed/amended waiver includes limitations on the amount of waiver services that were not included in the approved waiver, the transition plan describes how the limitations will be implemented.  Yes  No  N/A * When persons served in the approved waiver will not be eligible to participate in the new or renewed/amended waiver, the transition plan describes the steps that the state will take to facilitate the transition of affected individuals to alternate services and supports that will enable the individual to remain in the community.    Yes  No  N/A * The transition plan includes the time table for transitioning individuals to the new waiver (i.e., will participants in the existing waiver transition to the new waiver all at the same time or will the transition be phased in?).  Yes  No  N/A * The transition plan describes how the participant is notified of the changes and informed of the opportunity to request a Fair Hearing.  Yes  No  N/A |  |

# Instrument for Reviewing 1915 (c) Waiver Applications

# Worksheet A: Waiver Administration and Operation

| **A-1: State Line of Authority for Waiver Operations** | | **Analyst Notes** |
| --- | --- | --- |
|  | Is the waiver operated by:  The state Medicaid agency?  The medical assistance unit?  Another division/unit within the state Medicaid agency that is separate from   the medical assistance unit?  A separate agency of the statethat is not a division/unit of the Medicaid   agency? |  |
| **A-2-a and A-2-b: Medicaid Agency Oversight of Operating Agency Performance** | | **Analyst Notes** |
| *(Complete only if Medicaid Agency is not the operating agency.)* | * Do the Medicaid agency’s oversight methods span the full range of operational and administrative responsibilities ofthe division/unit/administration within the Medicaid agency and/or operating agency including its oversight of contracted and local/regional entities’ functionsas specified in Item A-7 and elsewhere in the application?   Yes  No   * Is the frequency of oversight specified?  Yes  No |  |
| **A-3: Use of Contracted Entities** | | **Analyst Notes** |
|  | When waiver operational and administrative activities are performed by contracted entities, does the waiver specify the types of entities that perform such activities and describe the types of activities that are performed by each type of entity?   Yes  No  N/A |  |
| **A-4: Role of Local/Regional Non-State Entities** | | **Analyst Notes** |
| *(Complete only when states use Local/Regional Non-State Entities to provide waiver services.)* | * Do local/regional non-state entities perform waiver operational and administrative functions at the local or regional level? This includes **Public Agencies** (e.g., counties or other entities under control of elected officials) or **Non-Governmental Entities** (e.g., AAA, county developmental disabilities authorities).    Yes  No * Does the state specify the waiver operational activities/functions that local/regional non-state entities perform?   Yes  No * Does the state describe the nature of the non-state entities?   Yes  No |  |
| **A-5: Responsibility for Assessment of Performance of Contracted and/or Local/Regional Non-State Entities** | | **Analyst Notes** |
| *(Complete only when the state uses contracted (Item A-3 is checked) and/or local/regional non-state entities (Item A-4 is checked))* | Does the state agency specify the state agency or agencies responsible for assessing the performance of contracted and/or local/regional non-state entities conducting waiver operational and administrative functions?   Yes  No |  |
| **A-6: Assessment Methods and Frequency** | | **Analyst Notes** |
| *(Complete only when the state uses contracted (Item A-3 is checked) and/or local/regional non-state entities (Item A-4 is checked))* | Does the state describe:   * The methods that are used to assess the performance of contracted and/or local/regional non-state entities to ensure that they perform assigned waiver operational and administrative functions are in accordance with waiver requirements?    Yes  No * The oversight methods encompass each function that is performed by contracted entities or local/regional non-state entities as specified in  Item A-7?   Yes  No * The frequency with which such assessments are conducted?   Yes  No * If assessments are performed by the operating agency, is the conduct of such assessment subject to review by the Medicaid agency to ensure that the operating agencyis exercising its responsibilities and that there are procedures that provide for the reporting of assessment results to the Medicaid agency?    Yes  No |  |
| **A-7: Distribution of Waiver Operational and Administrative Functions** | | **Analyst Notes** |
|  | Did the state correctly indicate the entity or entities that have significant responsibilities in directly performing each of the functions?   Yes  No  Did the state check the SMA when it (1) conducts the function directly; (2) supervises the delegated function; and/or (3) establishes and/or approves polices related to the function?    Yes  No |  |

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# Quality Improvement Strategy: Administrative Authority of the Single State Medicaid Agency

| **QIS: Administrative Authority**  **Discovery and Remediation** | | **Analyst Notes** |
| --- | --- | --- |
|  | Has the discovery of compliance with this assurance and the remediation of identified problems addressed:   * + How the Medicaid agency exercises oversight over the performance of delegated waiver functions by other entities;   Yes  No   * + How frequently oversight is conducted   Yes  No   and   * + The entity (or entities) responsible for the discovery and remediation activities.   Yes  No   When the state lacks processes to produce data associated with discovery and remediation activities, the state employs timelines that include the following:   * Specific tasks associated with the design and implementation of discovery and remediation activities;   Yes  No * Major milestones for completing the improvement;   Yes  No * Entity (or entities) responsible for completing these tasks.   Yes  No |  |

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# Worksheet B: Participant Access and Eligibility

|  |  |  |  |
| --- | --- | --- | --- |
| **B-1: Specification of the Waiver Target Group(s)** | | | **Analyst Notes** |
| **B-1-a: Target Group(s)** | | Does the waiver specify that the target groups align with the levels of care specified in Item 1-F of the Application (Module 1)?   Yes  No |  |
| **B-1-b: Additional Criteria**  *(See waiver instructions for full explanation of additional criteria.)* | | Are the waiver target group or groups sufficiently well-defined to permit the determination that an individual meets the target group criteria?   Yes  No |  |
| **B-1-c: Transition of Individuals Affected by Maximum Age Limit** | | When the waiver does not provide for the continuation of services to waiver participants beyond the age limit specified in the waiver, are there transition planning procedures that link affected participants to another waiver or other services and supports that provide continuity of services in the community to the extent feasible?   Yes  No |  |
| **B-2: Individual Cost Limit** | | | **Analyst Notes** |
| **B-2-a: Individual Cost Limit** | | * When the waiver imposes a cost limit that is lower than the cost of institutional services, is the limit based on sound analysis and rationale that within the amount of the limit, the health and welfare of the waiver target population will be assured post entrance to the waiver?   Yes  No * When the limit is expressed as an absolute dollar limit, does the waiver describe how the limit will be adjusted during the period in which the waiver is in effect?  Yes  No * When a waiver imposes an individual cost limit, it is applied uniformly and fairly to all potentially eligible individuals.   Yes  No |  |
| **B-2-b:**  **Method of Implementation of the Individual Cost Limit**  *(Complete only when the state applies any cost limit)* | | Do the state’s procedures take into account the full range of supports that the person requires in the community and include notification of the opportunity to request a Fair Hearing if enrollment is denied?    Yes  No |  |
| **B-2-c: Participant Safeguards**  *(Complete only when**the state applies any cost limit)* | | Does the waiver:   * Specify one or more safeguards to facilitate the continuity of services for affected individuals in the community?    Yes  No * Provide for informing the participant of and referral to other options?   Yes  No |  |
| **B-3: Number of Individuals Served** | | | **Analyst Notes** |
| **B-3-a: Unduplicated Number of Participants** | | Does the state specify the maximum number of unduplicated participants who will be served during each waiver year that the waiver is in effect?    Yes  No |  |
| **B-3-b: Limitation on the Number of Participants Served at any Point in Time** | | When the waiver provides for a point-in-time limit, is the limit for each waiver year consistent with the implied turnover rate in the average length of stay estimates in Appendix J-2?   Yes  No |  |
| **B-3-c: Reserved Waiver   Capacity** | | * Does the state reserve capacity?   Yes  No * If Yes, is capacity reserved only for one or more specific sets of individuals and does not violate the requirement that all waiver participants enrolled in the waiver have comparable access to all services offered in the waiver?  Yes  No |  |
| **B-3-d: Scheduled   Phase-In or   Phase-Out** | | * Is the waiver subject to a phase-in or a phase-out schedule?   Yes  No * If Yes, does the waiver include a phase-in or phase-out schedule as Attachment #1 to Appendix B-3?    Yes  No |  |
| **B-3-e: Allocation of Waiver Capacity** | | When waiver capacity is allocated to local/regional non-state entities, does the waiver:   * Specify the entities to which capacity is allocated?    Yes  No * Describe the methodology employed to allocate capacity?    Yes  No * Indicate that the methodology is based on objective factors/criteria?    Yes  No * Include policies for the reallocation of unused capacity among local non-state entities?    Yes  No * Include assurance that the state’s practices do not violate the requirement that individuals have comparable access to waiver services across the geographic areas served by the waiver or impede the movement of participants across geographic areas?    Yes  No |  |
| **B-3-f: Selection of Entrants to the Waiver** | | Are the state-established policies governing the selection of individuals for entrance to the waiver based on objective criteria and do not violate the requirement that otherwise eligible individuals have comparable access to all services offered in the waiver?    Yes  No |  |
| **B-4: Medicaid Eligibility Groups Served in the Waiver** | | | **Analyst Notes** |
| **B-4-a-i: State Classification**  **B-4-a-ii: Miller Trust State** | | Does the state’s selection comport with the state plan?  Yes  No  Is the state a Miller Trust State?  Yes  No |  |
| **B-4-b: Medicaid Eligibility Groups Served in the Waiver** | | Are the eligibility groups served in the waiver included in the state plan?  Yes  No  Note: DHCBSO, please complete. |  |
| **B-5: Post-Eligibility Treatment of Income** | | | **Analyst Notes** |
| **B-5-a: Use of Spousal Impoverishment Rules** | | The state has specified that:   * For regular post eligibility, do the protected amounts comply with 42 CFR §§ 435.726 and 435.735?   Yes  No  N/A   * For spousal impoverishment post eligibility, if the personal needs amount differs from the amount protected under regular post-eligibility rules, is there an explanation as to why the amount is reasonable to meet the maintenance needs of the waiver participant?   Yes  No  N/A   * It uses spousal impoverishment rules under section 1924 of the Act if the waiver is effective at any time between January 1, 2014 and September 30, 2027 (or other date required by law) and the state furnishes waiver services to individuals in the special home and community-based waiver group under 42 CFR § 435.217.   Yes  No  N/A |  |
| **B-5-b-1/B-5-b-2: Regular Post-Eligibility Treatment of Income: SSI State**  **B-5-c-1/B-5-c-2: Regular Post-Eligibility Treatment of Income: §209(b) State**  **B-5-d: Post-Eligibility Treatment of Income Using Spousal Impoverishment Rules** | | * When the state imposes a limit on the amount of incurred medical or remedial care expenses that may be deducted, is the limit specified and is it reasonable?  Yes  No  N/A |  |
| **B-5-e: Regular Post-Eligibility Treatment of Income: SSI State – 2014 through 2027 (or later date if required by law)**  **B-5-f: Regular Post-Eligibility Treatment of Income: §209(b) State – 2014 through 2027 (or later date if required by law)**  **B-5-g: Post-Eligibility Treatment of Income Using Spousal Impoverishment Rules – 2014 through 2027 (or later date if required by law)** | | * When the state imposes a limit on the amount of incurred medical or remedial care expenses that may be deducted, is the limit specified and is it reasonable?  Yes  No  N/A |  |
| **B-6: Evaluation/Reevaluation of Level of Care** | | | **Analyst Notes** |
| **B-6-a: Reasonable Indication of Need for Services** | Does the waiver specify that:   * An individual must require at least one waiver service?   Yes  No * An individual must require the provision of waiver services monthly, or at some other minimum frequency as established by the state, or, if less frequently than monthly, require monthly monitoring to assure health and welfare?  Yes  No | |  |
| **B-6-b: Responsibility for Performing Evaluations and Reevaluations** | Has the state specified and sufficiently described the agency that performs evaluations and reevaluations of level of care?    Yes  No | |  |
| **B-6-c: Qualifications of Individuals Performing Initial Evaluation** | Are the specified qualifications of evaluators appropriate for the target groups specified in the waiver?   Yes  No | |  |
| **B-6-d: Level of Care Criteria** | Are the factors used to evaluate and re-evaluate level of care consistent with and relevant to the level(s) of care specified for the waiver?    Yes  No  For ICF/IID level of care, the criteria are consistent with 42 CFR § 435.1009, persons with ID or related conditions. The level of care evaluation tool is functional, and does not limit participation to individuals with certain conditions.  Yes  No | |  |
| **B-6-e: Level of Care   Instrument(s)** | Does the waiver document and provide evidence that when a different level of care instrument/tool is used for the waiver and institutional services, the outcomes of the evaluations are equivalent?    Yes  No | |  |
| **B-6-f: Process for Level of Care Evaluation/Reevaluation** | * Does the waiver describe the types of assessments and information that are used in support of the determination of level of care and who is responsible for ensuring that this information is obtained?   Yes  No * When the re-evaluation process differs from the evaluation process, is the appropriate information gathered to confirm that the waiver participant continues to require a level of care specified in the waiver?   Yes  No | |  |
| **B-6-g: Re-evaluation Schedule** | Does the waiver specify that the level of care will be re-evaluated at least annually?  Yes  No | |  |
| **B-6-h: Qualifications of Individuals Who Perform Re-evaluations** | Are the qualifications of the individuals who perform re-evaluations appropriate for the target groups specified in the waiver?   Yes  No | |  |
| **B-6-i: Procedures to Ensure Timely Re-Evaluations** | Do the specified procedures ensure that re-evaluations will be performed on a timely basis?    Yes  No | |  |
| **B-6-j: Maintenance of   Evaluation/  Revaluation   Records** | Does the waiver specify the location(s) where records of evaluations and re-evaluations of level of care are maintained?    Yes  No | |  |

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# Quality Improvement Strategy: Level of Care

|  |  |  |
| --- | --- | --- |
| **QIS: Level of Care**  **Discovery and Remediation** | | **Analyst Notes** |
|  | Has the discovery of compliance with this assurance and the remediation of identified problems addressed the following?   * How the Medicaid agency assures compliance with the following level of care subassurances.   Yes  No * An evaluation for LOC is provided to all applicants for whom there is reasonable indication that services may be needed in the future.   Yes  No * The LOC of enrolled participants are reevaluated at least annually or as specified in the approved waiver**.**  Yes  No * The processes and instruments described in the approved waiver are applied appropriately and according to the approved description to determine participant LOC.   Yes  No * How frequently oversight is conducted.   Yes  No and * The entity (or entities) responsible for the discovery and remediation activities.   Yes  No   When the state lacks processes to produce data associated with discovery and remediation activities, the state employs timelines that include the following:   * Specific tasks associated with the design and implementation of discovery and remediation activities.   Yes  No * Major milestones for completing the improvement.   Yes  No |  |

|  |  |  |
| --- | --- | --- |
| **B-7: Freedom of Choice** | | **Analyst Notes** |
| **B-7-a: Procedures** | * Do the procedures described ensure that individuals are provided information about the services that are available under the waiver and that they have the choice of institutional or home and community-based services prior to the enrollment into the waiver program?   Yes  No * Does the waiver identify the entity or individual responsible for providing information about feasible alternatives and informing the individual, or their legal representative, about their freedom of choice between waiver and institutional services?   Yes  No |  |
| **B-7-b: Maintenance of Forms** | Does the state specify the locations where copies of the forms that document that the participant has been informed of feasible alternatives and has exercised choice in the selection of waiver or institutional services are maintained?  Yes  No |  |
| **B-8: Access to Services by Limited English Proficiency Persons** | | **Analyst Notes** |
|  | Does the waiver describe a variety of accommodations, both in conjunction with the waiver entrance process and for communicating with LEP persons on an ongoing basis (e.g., by providing for bilingual case managers).  Yes  No |  |

# Instrument for Reviewing 1915 (c) Waiver Applications Worksheet C: Participant Services

| **C-1: Summary of Services Covered** | | **Analyst Notes** |
| --- | --- | --- |
| **C-1-a: Waiver Services Summary** | * Does the waiver properly classify services?    Yes  No * Is there is a duplication of Medicaid state plan services?   Yes  No * Are services necessary for assisting waiver participants to avoid institutionalization and function in the community?   Yes  No   ***Note:*** *It is necessary to review each service identified in C-1-a against the relevant criteria. If the state is providing Supports for Participant Direction i.e. Information and Assistance and Financial Management Services, the review criteria contained in Item E-1-i and Item E-1-j should be used.* |  |
| **C-1-b: Alternate Provision of Case Management Services to Waiver Participants**  *(Complete only when case management is not a covered waiver service.)* | Does the application indicate how case management is furnished to waiver participants?   Yes  No |  |
| **C-1-c: Delivery of Case Management Services** | When case management is not a waiver service, does the state specify the entity or entities that conduct case management functions on behalf of waiver participants?  Yes  No  Does the state specify the requirements for case management training on the HCBS settings and person-centered planning regulatory requirements?  Yes  No |  |
| **C-1-d: Remote/Telehealth Delivery of Waiver Services** | Did the state indicate that any waiver services can be delivered remotely/via telehealth?  Yes  No  If yes, did the state specify:   * How the remote service(s) will be delivered in a way that respects the privacy of the individual especially in instances of toileting, dressing, etc.   Yes  No   * How the telehealth service delivery will facilitate community integration.   Yes  No   * How the 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 is separated from the individual.   Yes  No   * How the state will support individuals who need assistance with using the technology required for telehealth delivery of the service.   Yes  No   * How the telehealth will ensure the health and safety of an individual.   Yes  No |  |
| **C-2: General Service Specifications** | | **Analyst Notes** |
| **C-2-a: Criminal History/Background Investigations**  *(Complete only when the state requires a criminal history and/or background investigation for any service provider.)* | When criminal history/background investigations are required, does the waiver specify:   * The types of positions that must undergo such investigations?    Yes  No * The entity responsible for conducting the checks or investigations?   Yes  No   * The scope of the required investigation?   Yes  No * The state’s process to ensure that mandatory investigations have been conducted?   Yes  No |  |
| **C-2-b: Abuse Registry   Screening**  *(Complete only when the state conducts abuse registry screening for any service provider.)* | When abuse registry screening is required, does the waiver specify:   * The entity (entities) responsible for maintaining the abuse registry?   Yes  No   * The type of staff for whom abuse registry screenings must be conducted?   Yes  No   * The entity or entities responsible for conducting the screening against the registry?   Yes  No   * The state process for ensuring that mandatory screenings have been conducted?   Yes  No   * The process for ensuring continuity of care for a waiver participant whose service provider was added to the abuse registry?   Yes  No |  |
| **C-2-c: Facilities Subject to §1616(e) of the Social Security Act**  **C-2-c-i: Types of facilities Subject to §1616(e)**  *(Complete only when HCBS services under this waiver are provided in facilities subject to of the §1616(e)**Act.)* | When waiver services are furnished in facilities subject to §1616(e) of the Act:   * Is each type of facility listed by title?   Yes  No   * Are the waiver services that are provided in each type of facility specified?   Yes  No   * If applicable, is the maximum number of individuals who may be served in each type of facility specified?   Yes  No |  |
| **C-2-c-ii: Larger Facilities**  *(Complete only when the residential facilities described in Item C-2-c-i serve four or more individuals unrelated to the proprietor.)* | Is a home-like character maintained in larger settings, i.e. the facility is community-based, provides an environment that is like a home, provides full access to typical facilities in a home such as a kitchen with cooking facilities, small dining areas, provides for privacy and easy access to visitors at times convenient to the individual, resources and activities in the community?   Yes  No |  |
| **C-2-c-iii: Scope of State Facility Standards** | When a standards-related topic is not addressed, is there an explanation why the standard is not addressed or is not relevant to the facility type or population served in the facility and the state has explained how the health and welfare of waiver participants are assured in the unaddressed standard area(s)?   Yes  No |  |
| **C-2-d: Provision of Personal Care or Similar Services by Legally Responsible Individuals**  *(Complete only when state makes payment to legally responsible individuals for furnishing personal care or similar services.)* | When the waiver provides for the payment for personal care or similar services to legally responsible individuals for extraordinary care, does the waiver specify:   * The types of legally responsible individuals to whom payment may be made?  Yes  No * The waiver personal care or similar services for which payment may be made?  Yes  No * The method for determining that the amount of personal care or similar services provided by a legally responsible individual is “extraordinary care,” exceeding the ordinary care that would be provided to a person without a disability or chronic illness of the same age, and which are necessary to assure the health and welfare of the participant and avoid institutionalization?    Yes  No * The state policies to determine that the provision of personal care or similar services by a legally responsible individual is in the best interests of the participant?   Yes  No * When the legally responsible individual has decision-making authority over the selection of providers of waiver services, the state’s process for ensuring that the legally responsible individual uses substituted judgement on behalf of the individual?  Yes  No * Any limitations on the circumstances under which payment may be authorized or the amount of personal care or similar services for which payment may be made?   Yes  No * Any additional safeguards the state implements when the legally responsible individuals provide personal care or similar services; and  Yes  No * The procedures that are used to implement required state oversight, such as ensuring that payments are made only for services rendered?   Yes  No |  |
| **C-2-e: Other State Policies Concerning Payment for Waiver Services Furnished Relatives/Legal Guardians**  *(Complete only when state makes payment to relatives/legal guardians for furnishing waiver services.)* | When the waiver provides for the payment of services furnished by relatives or legal guardians:   * Are the types of relatives or legal guardians to whom payment may be made specified?   Yes  No * Are the waiver services for which payment may be made to relatives or legal guardians specified?   Yes  No * When relatives or legal guardians may be paid to furnish waiver services only in specific circumstances, does the waiver specify the circumstances and the method of determining that such circumstances apply?   Yes  No * Are the limitations on the amount of services that may be furnished by a relative or legal guardian specified?  Yes  No * Are the state policies to determine that the provision of waiver services by a relative/legal guardian is in the best interests of the participant specified?  Yes  No * When the relative/legal guardian has decision-making authority over the selection of providers of waiver services, does the state have a process in place for ensuring that the relative/legal guardian uses substituted judgement on behalf of the individual?   Yes  No * If the state has any additional safeguards that the state implements when relatives/legal guardians provide waiver services, did the state specify the additional safeguards?  Yes  No * Does the waiver specify the procedures that are employed to ensure that payment is made only for services rendered?   Yes  No |  |
| **C-2-f: Open Enrollment of Providers** | * Does the described provider enrollment processes assure that all willing and qualified providers have the opportunity to enroll?    Yes  No * Do providers have ready access to information regarding requirements and procedures to qualify, and are the timeframes established for qualifying and enrolling in the program?   Yes  No |  |
| **C-2-g: State Option to Provide HCBS in Acute Care Hospitals** | If the state selected yes to this option, did the state specify:   * The waiver services that can be provided in acute care hospitals?  Yes  No * A description of how the HCBS provided in acute care hospitals will assist individuals in returning to the community?   Yes  No   * If applicable, a description of any difference from the typically billed rate for the HCBS when provided during acute care hospitalization?   Yes  No   * If there is a difference in the typically billed rate, is this included in the rate methodology in Appendix I-2-a?  Yes  No |  |

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# Quality Improvement Strategy: Qualified Providers

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| **QIS: Qualified Providers**  **Discovery and Remediation** | | **Analyst Notes** |
|  | Has the discovery of compliance with this assurance and the remediation of identified problems addressed:   * How the Medicaid agency assures compliance with the following provider qualification sub assurances:   Yes  No * 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.   Yes  No * The state monitors non-licensed/non-certified providers to assure adherence to waiver requirements.   Yes  No * The state implements its policies and procedures for verifying that provider trainingis conducted in accordance with state requirements and the approved waiver.   Yes  No * How frequently oversight is conducted.   Yes  No; and * The entity (or entities) responsible for the discovery and remediation activities.   Yes  No   When the state lacks processes to produce data associated with discovery and remediation activities, the state employs timelines that include the following:   * Specific tasks associated with the design and implementation of discovery and remediation activities;   Yes  No   Major milestones for completing the improvement;   Yes  No |  |

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| **C-3: Waiver Services Specifications** | | **Analyst Notes** |
| **Service Definitions**  *A review must be conducted for each service specified by the state. See instructions for additional guidance on Core Service Definitions.* | * Is each service separately defined?   Yes  No * Unless the service is provided as an extended state plan service, does the service duplicate a coverage under the state plan?   Yes  No * When the waiver serves individuals under age 21, does the service duplicate a service that can be provided under the state plan as an expanded EPSDT service?   Yes  No * Does the service definition clearly delineate the purpose and the scope of the service?   Yes  No * Does the scope of the service span multiple, unrelated services, except for those that are similar or related and may be combined?    Yes  No * When the scope of a service potentially overlaps with the scope of another service, are there mechanisms that prevent duplicate billing?    Yes  No * In the case of non-statutory services, is the service necessary to avoid institutionalization and address functional impairments or other participant needs that, if left unaddressed, would prevent the person from engaging in everyday community activities?   Yes  No * Are any limits on the amount, duration and frequency for the service consistent with assuring health and welfare for the target population?    Yes  No * Are provider qualifications specified for each service and appropriate to the nature and type of the service?    Yes  No * Do provider qualifications include requirements for training, experience and education that are sufficient to ensure that waiver participants will receive services in a safe and effective manner?   Yes  No * Do provider qualifications include requirements that would unnecessarily restrict the number of providers, including unnecessarily restricting the provision of a service to agency providers?   Yes  No * For personal care services, are the following details included:   + Requirements regarding training hours and availability of continuing education, and whether such training is state sponsored, are highlighted for PCAs and other PCS providers?   Yes  No   + State maintenance of a listing of qualified PCA/PCS staff that is made available to individuals and families?   Yes  No   + Regulator monitoring and supervision of PCS providers by the agency and/or waiver participant in accordance with state policies?   Yes  No   * Do any waiver services include electronic/remote monitoring? *(Per policy in technical guide, electronic (remote) monitoring can include devices under an assistive technology and/or environmental modifications waiver service. States may also propose to cover the costs of the remote monitoring under a stand-alone service, which may or may not also include the remote monitoring device/technology with a separate service cost component in the Factor D charts in Appendix J of the waiver application.)*  Yes  No   If yes, did the state specify in the service definition the following:   * Who will be responsible for the remote monitoring activity, including whether they are on-site or on-call?   Yes  No   * How the remote monitoring will facilitate community integration?   Yes  No   * How the state will ensure that the individual’s right to privacy is being met, as well as that of others in the home and what safeguards will be in place to protect individual rights and privacy?   Yes  No   * How the state will ensure that the waiver participant, involved family members and/or guardian has agreed to the use of remote monitoring and that this is documented in the individual’s person-centered service plan prior to use?   Yes  No   * How the remote monitoring will ensure the individual’s needs are being met and that health and welfare needs are being addressed?  Yes  No * The back-up plan in the event of equipment/technology failure (e.g., evaluation of the existence or availability of back-up power sources, alarms, additional person(s) to assist, etc.)?   Yes  No * For remote monitoring devices/equipment/technology. did the state describe:   + Where devices/monitors will be placed, including whether the state will permit placement of video cameras/monitors in bedrooms and bathrooms?   Yes  No   * + If the state will permit video cameras/monitors to be placed in bedrooms and bathrooms, how the state will ensure that this is determined to be necessary on an individual basis and justified in the person-centered service plan?   Yes  No   * + The control that the waiver participant will have over the equipment, including whether the waiver participant can turn off the remote monitoring device/equipment, if they choose to do so, and how they are informed of this option and how to do it?   Yes  No |  |
| **C-4: Additional Limits on Amount of Waiver Services** | | **Analyst Notes** |
| **General Criteria:** | * Does the waiver specify the services to which the limit applies?   Yes  No * Is the method of determining the limit objective and evidence based (e.g., is the method of determining the individual budget amount based on the analysis of historical costs and utilization and other factors that are likely to affect costs)?   Yes  No * Does the waiver specify the processes that are used to determine the amount of the limit to which a participant’s services are subject?   Yes  No * Does the waiver specify how the amount of the limit is adjusted during the period that the waiver is in effect?   Yes  No * Does the waiver contain provisions for adjusting or making exceptions to the limit based on participant health and welfare needs or other factors specified by the state? Are any criteria applied to adjust the budget clear and explicit?  Yes  No * Does the waiver specify safeguards that are in effect when the amount of the limit is insufficient to meet a participant’s needs?   Yes  No * Does the waiver provide for notifying participants of the amount of the limit to which their waiver services are subject?   Yes  No |  |
| **Criteria Applicable to Specific Types of Limits** | **Limit(s) on Set(s) of Waiver Services**  Are the services in the set to which the limit applies reasonably related to one another?    Yes  No |  |
| **Prospective Individual Budget Amount** | * Does the waiver specify the assessment and other participant information upon which the individual budget amount is based?   Yes  No * Does the waiver explain how assessment and other participant information is employed in determining the individual budget amount?    Yes  No * Is the entity responsible for determining the individual budget amount identified?    Yes  No * If geographic factors affect the budget amount, does the waiver explain how such adjustments are made?   Yes  No * Does the waiver specify how the methodology for determining the individual budget amount is open for public inspection?   Yes  No |  |
| **Budget Limits by Level of Support** | * Does the waiver specify the levels of support or participant groupings that have been established and the basis for such groupings?    Yes  No * Does the waiver specify the procedures that are followed to assign participants to a level of support or participant grouping?   Yes  No * Does the waiver specify the entities responsible for determining the assignment of individuals by level of support?   Yes  No * When assessment results are used to assign individuals to groupings, does the waiver specify the types of assessments that are employed?   Yes  No * If geographic factors affect the budget amount, does the waiver explain how such adjustments are made?    Yes  No * Does the waiver specify how the methodology for determining the budget limit that based on level of support amount is open for public inspection?   Yes  No |  |
| **Other Type of Limit** | Based on the nature of the other type of limit that is used, any of the foregoing criteria may apply. |  |
| **C-5: Home and Community-Based Settings** | | **Analyst Notes** |
| **C-5-a: Home and Community-Based Settings Compliance** | * Does the state’s description include a list of the settings types where individuals receive services?   Yes  No  N/A * Does the state’s description include the process that the state Medicaid agency used to assess and determine that all waiver settings meet the HCB settings requirements at the time of submission?   Yes  No  N/A * Does the state’s description include the process that the state Medicaid agency will use to ensure that all settings will continue to meet the HCBS settings requirements as a part of ongoing monitoring?   Yes  No  N/A |  |

# Instrument for Reviewing 1915 (c) Waiver Applications

# Worksheet D: Participant-Centered Planning and Service Delivery

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| --- | --- | --- | --- |
| **D-1: Service Plan Development** | | | **Analyst Notes** |
| **D-1-a: Responsibility for Service Plan Development** | Has the state specified the qualifications of theindividuals responsible for service plan development that reflect the nature of the waiver’s target groups?  Yes  No | |  |
| **D-1-b: Service Plan Development Safeguards** | When a state allows for an entity that is responsible for person-centered service plan development to also provide other direct waiver services, has the state:   * Demonstrated that the entity is the only willing and qualified provider to develop the person-centered service plan?   Yes  No; and * Described safeguards that mitigate and addresses the potential problems that may arise, with the service providers’ influence on the person-centered planning process (exercising free choice of providers, controlling the content of the plan, including assessment of risk, services, frequency and duration, and informing the participant of their rights) including:   + Full disclosure to participants and assurance that participants are supported in exercising their right to free choice of providers and are provided information about the full range of waiver services, not just the services furnished by the entity that is responsible for the person-centered service plan development;  Yes  No   + An opportunity for the participant to dispute the state’s assertion that there is not another entity or individual that is not that individual’s provider to develop the person-centered service plan through a clear and accessible alternative dispute resolution process;   Yes  No   + Direct oversight of the process or periodic evaluation by a state agency;    Yes  No   + Restricting the entity that develops the person-centered service plan from providing services without the direct approval of the state;   Yes  No   + Requiring the agency that develops the person-centered service plan to administratively separate the plan development function from the direct service provider functions.   Yes  No | |  |
| **D-1-c: Supporting the Participant in Service Plan Development** | * Is the participant’s authority to include individuals of his/her choice to participate in the service plan development process specified?   Yes  No * Does the description identify the meaningful information and supports that are available to the participant (or others designated by the participant) to actively engage in and direct the process?    Yes  No | |  |
| **D-1-d-i: Service Plan Development Process** | Does the description of the service plan development process address:   * Who develops the plan and who participates in the process?   Yes  No * The timing of the plan and how and when it is updated, including responding to changing circumstances and needs (including how the planning meetings are scheduled at times and locations convenient to the individual)?   Yes  No * The types of assessments that are conducted as part of the service plan development process, including securing information about participant strengths, capacities, needs, preferences, and desired outcomes, health status, and risk factors?   Yes  No * How participant is informed of services available under the waiver?   Yes  No   * How the process ensures that the service plan addresses participant desired outcomes, needs and preferences?   Yes  No * How responsibilities are assigned for implementing the plan?   Yes  No * How the process addresses participants’ health care needs?   Yes  No * How waiver and other services (i.e., state Plan services and services furnished through other state and federal programs) are coordinated?   Yes  No * The assignment of responsibility to monitor and oversee the implementation of the service plan?   Yes  No * How and when the service plan is updated?   Yes  No   * How the participant engages and/or directs the planning process?   Yes  No   * If the state uses temporary, interim/provisional service plans to get services initiated until a more detailed service plan can be finalized, has the state described the procedures for developing interim/provisional plans and the duration of such plans?   Yes  No  N/A | |  |
| **D-1-d-ii: HCBS Settings Requirements for the Service Plan** | Does the description of the service plan development process address:   * Has the state assured that person-centered service plans include the setting options that are based on the individual’s needs, preferences, and, for residential settings, resources available for room and board?   Yes  No   * Has the state assured that person-centered service plans include, for provider-owned or controlled settings, any modification of the additional conditions under 42 CFR §§ 441.301(c)(4)(vi)(A) through (D) that are supported by a specific assessed need and justified in the person-centered service plan?   Yes  No   * Has the state indicated how they document consent of the person-centered service plan from the waiver participant or their legal representative?   Yes  No | |  |
| **D-1-e: Risk Assessment and Mitigation** | Does the waiver describe:   * How risks are assessed?   Yes  No * How strategies to mitigate risk are incorporated into the service plan in a manner sensitive to the person’s preferences, including responsibilities and measures for reducing risks?   Yes  No * The types of backup arrangements that are used?   Yes  No * How back-up plans are developed and incorporated into the service plan?  Yes  No | |  |
| **D-1-f: Informed Choice of Providers** | * Are participants initially provided with, and on an ongoing basis have ready access to accessible information (in a manner consistent with their needs) about choice of qualified providers and available service providers?  Yes  No * Are participants supported in selecting providers?   Yes  No | |  |
| **D-1-g: Process for Making Service Plan Subject to the Approval of the Medicaid Agency** | * Does the process described to review plans indicate that the Medicaid agency exercises oversight of service plans on a routine and periodic basis?  Yes  No * Does the waiver include a process to ensure a practice of person-centered service planning in accordance with 42 CFR § 441.301(c)?   Yes  No   * If an in-depth review of a sample of service plans is conducted, has the state specified the basis for the sample size, the frequency of these retroactive reviews, review methodology, and persons/entities who conduct the review?  Yes  No N/A * If an in-depth review of a sample of service plans is conducted, does the state ensure that the sample of service plans is representative of the demographic make-up of the waiver population?  Yes  No N/A | |  |
| **D-1-h: Service Plan Review and Update** | * The waiver service plan review schedule provides for conducting reviews no less than annually.    Yes  No | |  |
| **D-1-i: Maintenance of Service Plan Forms** | * The waiver specifies where copies of service plans are maintained for a period of at least three years.    Yes  No | |  |
| **D-2: Service Plan Implementation and Monitoring** | | | **Analyst Notes** |
| **D-2-a: Service Plan Implementation and Monitoring** | | Does the waiver specify:   * The entity(ies) responsible for monitoring?   Yes  No * Monitoring methods and frequency to the target population, e.g. including the frequency of direct, in-person contact with the participant?  Yes  No * How monitoring methods address: * Services furnished in accordance with the service plan?  Yes  No * Participant access to waiver services identified in service plan?  Yes  No * Participants exercise free choice of provider?   Yes  No * Services meet participants’ needs?   Yes  No * Effectiveness of back-up plans?   Yes  No * Participant health and welfare?   Yes  No * Participant access to non-waiver services in service plan, including health services?   Yes  No * Methods for prompt follow-up and remediation of identified problems?  Yes  No * How methods for systematic collection of information about monitoring results are compiled, including how problems identified during monitoring, are reported to the state?   Yes  No |  |
| **D-2-b: Monitoring   Safeguards**  *(Complete only if state indicates that entities responsible for monitoring service plans are also providing direct waiver services.)* | | When a state allows for an entity that is responsible for monitoring person-centered service plan implementation to also provide other direct waiver services, has the state:   * Demonstrated that the entity is the only willing and qualified provider to monitor the implementation of the person-centered service plan?  Yes  No; and * Described safeguards that mitigate and addresses the potential problems that may arise, with the service providers’ influence on monitoring of the implementation of the person-centered service plan (exercising free choice of providers, controlling the content of the plan, including assessment of risk, services, frequency and duration, and informing the participant of their rights) including: * Full disclosure to participants and assurance that participants are supported in exercising their right to free choice of providers and are provided information about the full range of waiver services, not just the services furnished by the entity that is responsible for the monitoring of the implementation of the person-centered service plan;  Yes  No * An opportunity for the participant to dispute the state’s assertion that there is not another entity or individual that is not that individual’s provider to monitor the implementation of the person-centered service plan through a clear and accessible alternative dispute resolution process;   Yes  No * Direct oversight of the process or periodic evaluation by a state agency;    Yes  No * Restricting the entity that monitors the implementation of the person-centered service plan from providing services without the direct approval of the state;   Yes  No * Requiring the agency that monitors the implementation of the person-centered service plan to administratively separate the plan monitoring function from the direct service provider functions.   Yes  No |  |

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# Quality Improvement Strategy: Service Plan

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| **QIS: Service Plan**  **Discovery and Remediation** | | **Analyst Notes** |
|  | Has the state described how the Medicaid agency will compliance with the following service plan sub-assurances:   * Service plans address all participants’ assessed needs (including health and safety risk factors) and personal and community integration goals, either by waiver services or through other means.   Yes  No * Service plans are updated/revised at least annually or when the individual’s circumstances or needs change significantly, or at the request of the individual.  Yes  No * Services are delivered in accordance with the service plan, including in the type, scope, amount, duration, and frequency specified in the service plan.   Yes  No * Participants are afforded choice:   + Between waiver services and institutional care;   Yes  No   + Between/among waiver services and providers**.**   Yes  No * The state monitors service plan development in accordance with its policies and procedures.  Yes  No * How frequently oversight is conducted.   Yes  No * The entity (or entities) responsible for the discovery and remediation activities, the state’s method for addressing individual problems as they are discovered, identifying systemic deficiencies, and implementing remediation actions.   Yes  No   When the state lacks processes to produce data associated with discovery and remediation activities, the state employs timelines that include the following:   * Specific tasks associated with the design and implementation of discovery and remediation activities.   Yes  No * Major milestones for completing the improvement.  Yes  No |  |

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# Worksheet E: Participant Direction of Services

| **E-1: Overview**  *This section is completed if the state has indicated that it is incorporating participant direction into its waiver.* | | **Analyst Notes** |
| --- | --- | --- |
| **E-1-a: Description of Participant Direction** | Does the overview contain a description of all of the following:   * The participant direction opportunities afforded to waiver participants?  Yes  No * The process by which participants may access these participant direction opportunities?   Yes  No * The entities involved in supporting participant direction?   Yes  No * The types of supports that each entity provides?   Yes  No |  |
| **E-1-b: Participant Direction** **Opportunities** | Has the state designated:  Participant – Employer Authority?  Participant – Budget Authority?  Both Authorities? |  |
| **E-1-c: Availability of Participant Direction by Type of Living Arrangement** | When the third choice (other living arrangement) is selected, does the waiver specify the types of other living arrangements where participant direction is supported?    Yes  No |  |
| **E-1-d: Election of Participant-Direction** | When the first choice is selected, do the additional targeting criteria in Item B-1-b in Appendix B-1 specify that the waiver is limited to persons who want to direct their services?   Yes  No  When the third choice is selected, are the additional criteria that are used to determine whether a person may direct some or all of their services:   * Specified and well-defined?   Yes  No * Do not include a blanket exclusion of individuals solely on the basis that they have specific cognitive or other disabilities?   Yes  No * Do not exclude participants solely on the basis of an assessment that the individual, in isolation, is unable to carry out some of the responsibilities associated with participant direction?   Yes  No |  |
| **E-1-e: Information Furnished to Participants** | Does the waiver:   * Provide that participants are furnished information about the benefits and potential liabilities associated with participant direction along with information about their responsibilities when they elect to direct their services?  Yes  No * Specify a specific entity or entities that are responsible for furnishing this information?   Yes  No * Describe the process (e.g., as part of service plan development or by other means) by which this information is provided to individuals and/or representatives?   Yes  No * Provide information in a timely basis to permit informed decision making by the participant – i.e., prior to or during entrance to the waiver or as part of service plan development – allowing sufficient time for the participant to weigh the pros and cons of participant direction and obtain additional information as necessary before electing participant direction?   Yes  No |  |
| **E-1-f: Participant Direction by a Representative**  *(Complete only when the state provides for the direction of waiver services by a representative.)* | The use of representatives to direct waiver services on behalf of a participant is at the discretion of the state. When waiver services may be directed by a non-legal representative:   * Does the waiver describe the process for the appointment of this type of representative and the extent of the decision-making authority exercised by the non-legal representative?   Yes  No * Does the waiver include safeguards to ensure that a non-legal representative functions in the best interests of the participant?   Yes  No |  |
| **E-1-g: Participant-Directed Services** | * When the Employer Authority is offered (as specified in Item E-1-b), does it apply to at least one waiver service?   Yes  No * When the Budget Authority is offered (as specified in Item E-1-b), does it apply to at least one but usually to two or more waiver services?   Yes  No |  |
| **E-1-h: Financial Management Services**  *(Complete only when Financial Management Services are furnished through a third party entity.)* | When Financial Management Services are furnished through a third party entity, are services provided by:  Governmental entities?  Private entities?  Both?  The selection is at the discretion of the state. However, it is expected that in nearly all instances that the “yes” response will be selected. If the no response is selected, then the application should be reviewed to determine that the selection is appropriate.  If no is selected, refer to E-2-a-i to determine if the state is offering a co-employer status using traditional providers and standard Medicaid payment processes. |  |
| **E-1-i: Provision of Financial Management Services**  *(Complete only when FMS is provided as an administrative activity. If the state provides FMS as a waiver service, the scope should be specified in C-3. Use the criteria for Employer Authority and Budget Authority when reviewing the FMS as a waiver service in C-3.)* | The necessary minimum scope of financial management services hinges on the participant direction opportunities (employer and/or budget authority) that are available under the waiver and further specified in Appendix E-2. FMS may be furnished either as a waiver service (as specified in Appendix C-3) or an administrative service (as specified in this item). Regardless of the payment authority (service or administrative) that is used to underwrite the costs of FMS, the minimum types of supports that must be furnished to participants under either authority are the same. In particular:  **Employer Authority**  Has the state furnished these minimum required supports:   * Participant assistance in verifying support worker citizenship status?   Yes  No * Collection and processing of support workers’ timesheets?   Yes  No * Processing payroll, withholding, filing and payment of applicable federal, state and local employment-related taxes and insurance?    Yes  No   **Budget Authority**   * Maintaining a separate account for each participant’s budget?   Yes  No * Tracking and reporting disbursements and balances of participant funds?  Yes  No * Processing and paying invoices for goods and services approved in the service plan?   Yes  No * Providing participant with periodic reports of expenditures and the status of the participant – directed budget?   Yes  No * When these supports are provided as a waiver service, does the specification of FMS in Appendix C-3 include the foregoing supports, depending on the participant direction opportunities available under the waiver?   Yes  No   * Does the service specification meet all other requirements associated with service coverage (e.g., freedom of choice of provider)?   Yes  No   **Administrative Claiming**  When FMS are furnished as an administrative activity:   * Are the types of entities that furnish FMS are specified?   Yes  No * Is the method of procuring FMS specified and does it comport with the applicable regulations at 45 CFR § 74?   Yes  No * Is the method of compensating FMS entities specified?   Yes  No * Is the percentage of FMS costs relative to service costs estimated and is it reasonable given the scope of supports furnished by FMS entity?  Yes  No * Is the scope of the supports the FMS entities provide specified? When supports over and above those listed are included, are the activities necessary for the proper and efficient administration of the waiver?   Yes  No * Is the method and frequency of assessing the performance of the FMS entities specified?   Yes  No * Are the entities responsible for assessing performance specified?  Yes  No |  |
| **E-1-j: Information and Assistance in Support of Participant Direction**  *(Complete only when Information and Assistance is provided as a Case Management activity or an administrative activity. If the state provides Information and Assistance as a waiver service, the scope should be specified in C-3. Use the criteria for Information and Assistance below when reviewing Information and Assistance in C-3.)* | **Sufficiency of Supports**  Does the scope of information and assistance in support of participant direction align with the range of participant decision-making authorities specified in Appendix E-2?   Yes  No  This requirement may be met by employing one or more payment authorities. Consequently, the relevant service specifications in Appendix C-3 and the response to this item may have to be reviewed in tandem to ascertain whether the overall scope of supports is sufficient.  **Provision of Supports as Case Management Activity**   * When information and assistance supports are furnished as part of waiver case management services, does the case management service specification identify the supports?   Yes  No * When information and assistance supports are furnished as part of state plan services, are the supports detailed by participant direction opportunity?   Yes  No  N/A   * If yes, is the nature of the supports consistent with the statutory scope of the state plan service and the coverage of the state plan service contained in the state plan?   Yes  No   **Provision of Information and Assistance Supports as an Administrative Activity**   * Are the types of entities that furnish information and assistance supports specified?   Yes  No * Is the method of procuring information and assistance supports specified and does it comport with applicable regulations at 45 CFR § 92.42?   Yes  No * Is the method of compensating entities for furnishing information and assistance specified?   Yes  No * Is the scope of information and assistance specified by type of participant direction opportunity?   Yes  No * Are the supports necessary for the proper and efficient administration of the waiver?   Yes  No * Is the method and frequency of assessing the performance of entities that furnish information and assistance specified?   Yes  No * Is the entity (or entities) responsible for assessing performance specified?  Yes  No   Note: The CMS waiver analyst should advise the financial staff that the state has indicated that it is using administrative claiming. This applies to all Medicaid administrative claiming activities specified (for example, case management, financial management services, and support broker). Medicaid administrative claiming has to be in accordance with the approved cost allocation plan. Cost allocation plans are not reviewed or approved under the process. |  |
| **E-1-k: Independent Advocacy** | * Do the individuals and/or organizations furnish other direct services or perform other waiver functions that have a direct impact on a participant?  Yes  No * Does the waiver describe how participants may access independent advocacy?  Yes  No |  |
| **E-1-l: Voluntary Termination of Participant Direction** | Does the waiver describe how:   * The choice to voluntarily terminate participant direction and receive provider-managed alternative services is accommodated?   Yes  No * Service continuity is ensured and participant health and welfare is assured during the transition period?   Yes  No |  |
| **E-1-m: Involuntary Termination of Participant Direction** | When participant direction is terminated involuntarily, does the waiver specify:   * The circumstances under which participant direction is terminated?   Yes  No   * The safeguards that ensure continuity of services and assure participant health and welfare during the transition period?    Yes  No |  |
| **E-1-n: Goals for Participant Direction** | Has the state specified its goal for the unduplicated number of waiver participants who are expected to avail themselves of the waiver’s participant direction opportunities?   Yes  No  ***Note****: Approval of the waiver is not contingent on a minimum number of waiver participants electing to direct their services.* |  |
| **E-2: Opportunities for Participant-Direction** | | **Analyst Notes** |
| **E-2-a: Participant - Employer Authority**  **E-2-a-i. Participant Employer Status**  *(Complete only when the waiver offers the Employer Authority opportunity as indicated in E-1-b.)* | Has the state specified the participant’s employer status under the waiver as:  Participant/Co-Employer?  Are the types of agencies that serve as co-employers specified as agency with choice FMS?   Yes  No  Participant/Common Law Employer?  Both?  When co-employer option is available, the state has mechanisms in place to ensure that individuals maintain authority and control over employees, and that the agency with choice service delivery model truly reflects the key elements of self-direction.   Yes  No  N/A |  |
| **E-2-a-ii. Participant Decision Making Authority**  *(Complete only if*  *Employer Authority is indicated in E-1-b.)* | In order for the waiver to be considered to offer employer authority to participants, the participant should have the authority to conduct the following functions at a minimum:   * Recruit workers?  Yes  No * Hire and discharge staff (common law employer)?   Yes  No * Refer for hire and discharge from providing services (co-employer)?  Yes  No * Specify staff qualifications?   Yes  No * Determine staff duties?   Yes  No * Schedule staff?   Yes  No * Supervise staff?   Yes  No * Evaluate staff performance?   Yes  No |  |
| **E-2-b: Participant-Budget Authority**  **E-2-b-i Participant Decision Making Authority**  *(Complete only if*  *Participant-Budget Authority is indicated in E-1-b.)* | In order for the waiver to be considered to offer budget authority to participants, the participant should at a minimum have the authority to:   * Determine the amount paid for each service in accordance with the state's policies?   Yes  No * Schedule when services are provided?   Yes  No * Identify service providers and refer for enrollment?   Yes  No * Review and approve provider invoices?   Yes  No |  |
| **E-2-b-ii. Participant-Directed Budget**  *(Complete only if Budget Authority is indicated in E-1-b.)* | Does the state specify:   * The basis of the method for determining the participant directed budget?  Yes  No * How the method is rooted in the participant’s service plan, Appendix C-4 (if applicable), or an alternative approach that is based on reliable cost-estimating techniques?   Yes  No * That when the method provides that the budget may vary based on additional factors, the factors that are used and how they affect the budget?  Yes  No * How the method is applied consistently to each waiver participant?  Yes  No * How information about the budget methodology is made available to the public?  Yes  No |  |
| **E-2-b-iii. Informing Participant of Budget Amount**  *(Complete if Budget Authority is indicated in E-1-b.)* | Does the state describe:   * How the participant is informed of the budget amount before the service plan is finalized?   Yes  No * How the waiver provides for procedures for the participant to request an adjustment in the budget?   Yes  No * How participants are afforded the opportunity to request a fair hearing when the participant’s request for a budget adjustment is denied or the amount of the budget is reduced?   Yes  No |  |
| **E-2-b-iv. Participant Exercise of Budget Flexibility**  *(Complete only if participants who exercise Budget Authority may modify the services in the participant-directed budget without advance approval of a service plan change.)* | When the waiver provides that participants have the authority and flexibility to modify the distribution of funds in the participant-directed budget without prior change to the service plan, does the waiver specify:   * How the changes to the budget and service plan are documented?  Yes  No * If applicable, the circumstances when changes are subject to prior review and the entity responsible for conducting this review?   Yes  No |  |
| **E-2-b-v: Expenditure Safeguards** | Does the waiver describe:   * The safeguards to prevent the premature depletion of the participant budget or address potential service delivery problems that may be associated with budget underutilization?   Yes  No * Identify the entity (or entities) responsible for ensuring the implementation of safeguards?   Yes  No * How the safeguards ensure that potential budget problems are identified on a timely basis?   Yes  No * The safeguards that include flagging potential over expenditures or budget underutilization?    Yes  No |  |

# Instrument for Reviewing 1915 (c) Waiver Applications

# Worksheet F: Participant Rights

| **F-1: Opportunity to Request a Fair Hearing** | | **Analyst Notes** |
| --- | --- | --- |
|  | Does the state’s description:   * Specify how individuals are informed about the fair hearing process during entrance to the waiver, including how, when, and by whom this information is provided to individuals to ensure that the participant is knowledgeable about their right to a fair hearing?    Yes  No * Address all instances when notice must be made to an individual of an adverse action: choice of provider or service; and denial, reduction, suspension or termination of service? Does the description specify: (a) how notice is made; (b) the entity or entities responsible for issuing the notice; and, (c) the assistance (if any) that is provided to individuals in pursuing a fair hearing?   Yes  No * Specify how the participant is informed that services will continue during the period while the participant’s appeal is under consideration unless the state is not required to continue the services in accordance with 42 CFR § 431.230?    Yes  No * Specify where notices of adverse actions and the opportunity to request a fair hearing are kept?   Yes  No |  |
| **F-2: Additional Dispute Resolution Mechanism** | | **Analyst Notes** |
| **F-2-a: Availability of Additional Dispute Resolution Process** | Does the state operate an additional dispute resolution mechanism?  Yes  No |  |
| **F-2-b: Description of Additional  Dispute Resolution  Mechanism**  *(Complete only complete if the state has indicated that it has an additional dispute resolution mechanism.)* | When there is an additional dispute resolution process:   * Does the waiver identify the state agency that operates the dispute mechanism?  Yes  No * Does the state describe the types of disputes that can be addressed, including the process and timelines?   Yes  No * When a participant elects to make use of the dispute mechanism, is the participant informed that the dispute resolution mechanism is not a pre-requisite or substitute for a Fair Hearing?    Yes  No |  |

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| --- | --- | --- |
| **F-3: State Grievance/Complaint System** | | **Analyst Notes** |
| **F-3-a: Operation of Grievance/Complaint System**  **F-3-b: Operational Responsibility**  **F-3-c: Description of System**  *(Complete only if the state has indicated that it has a grievance/complaint system.)* | When there is a grievance/complaint system:   * Is the state agency that operates the grievance/complaint system identified?  Yes  No * Does the state describe the types of complaints that can be addressed, the process and timelines?   Yes  No * Is the participant informed that filing a grievance or making a complaint is not a pre-requisite or substitute for a Fair Hearing?   Yes  No |  |

# Instrument for Reviewing 1915 (c) Waiver Applications

# Worksheet G: Participant Safeguards

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| --- | --- | --- |
| **G-1: Response to Critical Events or Incidents** | | **Analyst Notes** |
| **G-1-a: State Critical Event or Incident Reporting Requirements** | * Does the state provide for the reporting and investigation of major and serious incidents (abuse, neglect, and exploitation at a minimum)?  Yes  No |  |
| **G-1-b: State Critical Event or Incident Reporting Requirements** | Does the state’s description include:   * + Definitions of the types of critical events or incidents that must be reported?  Yes  No   + Identification of the individuals/entities that must report critical events and incidents?   Yes  No   + Timeframes within which critical events or incidents must be reported?  Yes  No   + The method of reporting (e.g., phone, written form, web-based reporting system)?   Yes  No |  |
| **G-1-c: Participant Training and Education** | Does the waiver describe/specify:   * How training and/or information are furnished to participants or their informal caregivers concerning protections from abuse, neglect and exploitation, including how to notify the appropriate authorities?   Yes  No * The entities responsible for providing training and/or information?  Yes  No * The frequency of providing training and/or information?   Yes  No |  |
| **G-1-d: Responsibility for Review of and Response to Critical Events or Incidents** | Does the waiver specify:   * The entity (or entities) that receive reports of each type of critical event or incident?   Yes  No * The entity that is responsible for evaluating reports and how reports are evaluated?   Yes  No * The entity that is responsible for conducting investigations and how investigations are conducted?   Yes  No * The timeframes for conducting an investigation and completing an investigation?   Yes  No * The process and timeframes for informing the participant, including the participant (or the participant’s family or legal representative as appropriate) and other relevant parties (e.g., the waiver providers, licensing and regulatory authorities, the waiver operating agency) of the investigation results?  Yes  No |  |
| **G-1-e: Responsibility for Oversight of Critical Incidents and Events** | Does the waiver specify:   * The state entity or entities responsible for overseeing the operation of the incident management system?    Yes  No * When oversight is not performed by the Medicaid agency or the operating agency (if applicable), the process for the oversight agency to communicate information and findings to the Medicaid agency and/or the operating agency?  Yes  No * The methods for overseeing the operation of the incident management system, including how data are collected, compiled, and used to prevent re-occurrence?  Yes  No * The frequency of oversight activities?   Yes  No |  |
| **G-2: Safeguards Concerning Restraints and Restrictive Interventions** | | **Analyst Notes** |
| **G-2-a: Applicability** | Is the state’s response consistent with the remainder of the waiver application?  Yes  No  If the first choice is selected, does the state provide specific methods to detect unauthorized use of restraints and specify the state agency (or agencies) responsible for conducting this oversight?  Yes  No  Does the use of restraints comport with the home and community-based setting requirements at 42 CFR §§ 441.301(c)(4)(iii) and (vi)(F), and person-centered service planning and plan requirements at 42 CFR §§ 441.301(c)(1) and (c)(2)?    Yes  No  ***Note:*** *In cases where the waiver serves a population (e.g., ID or TBI, children with serious emotional disturbance) for whom the use of restraints and restrictive interventions is common and the state indicates that the Appendix does not apply, the reviewer is advised to confirm with the state that such interventions are prohibited. The state must complete Item G-2-c.ii. to describe how the state detects unauthorized use.* |  |
| **G-2-a-i: Safeguards Concerning the Use of Restraints**  *(Complete only when the use of restraints and/or restrictive interventions is permitted during the course of the provision of waiver services regardless of setting.)* | For *each type of restraint* permitted, has the state identified safeguards that address:   * The use of alternative methods to avoid the use of restraints?   Yes  No * Methods for detecting the unauthorized use of restraints?   Yes  No * The protocols that must be followed when restraints are employed (including the circumstances when their use is permitted) and how their use is authorized?  Yes  No * The practices that must be employed to ensure the health and safety of individuals?   Yes  No * Required documentation concerning the use of restraints?   Yes  No   * Education and training requirements that personnel who are involved in the administration of restraints must meet?   Yes  No |  |
| **G-2-a-ii: State Oversight Responsibility** | Does the state’s response specify:   * The state agency (or agencies) responsible for overseeing the use of restraints and ensuring that the state’s safeguards are followed?   Yes  No   * When oversight is not performed by the Medicaid agency or the operating agency (if applicable), the process for the oversight agency to communicate information and findings to the Medicaid agency and/or operating agency?   Yes  No   * Methods for detecting unauthorized use, over use or inappropriate/ineffective use of restraints and ensuring that all applicable state requirements are followed?   Yes  No * How data are analyzed to identify trends and patterns and support improvement strategies?   Yes  No * The methods for overseeing the operation of the incident management system including how data are collected, compiled, and used to prevent re-occurrence?  Yes  No * The frequency of the oversight activities?   Yes  No |  |
| **G-2-b: Restrictive Interventions** | * Is the state’s response consistent with the remainder of the waiver application?   Yes  No   * If the first choice is selected, does the state provide specific methods to detect unauthorized use of restraints and/or seclusion, and specify the state agency (or agencies) responsible for conducting this oversight?   Yes  No   * Does the use of restrictive interventions comport with the home and community-based setting requirements at 42 CFR §§ 441.301(c)(4)(iii) and (vi)(F), and person-centered service planning and plan requirements at 42 CFR §§ 441.301(c)(1) and (c)(2)?   Yes  No |  |
| **G-2-b-i: Safeguards Concerning the Use of Restrictive Interventions**  *(Complete only when the use of restraints and/or restrictive interventions is permitted during the course of the provision of waiver services regardless of setting.)* | * Does the state’s response specify the types of restrictive interventions that are permitted, the circumstances under which they are allowed, and the types of restrictive interventions that are not allowed?   Yes  No * For *each type of restrictive intervention* that is permitted, do the state’s safeguards address: * First use of non-aversive methods?   Yes  No * Methods to detect the unauthorized use of restrictive interventions?   Yes  No   * Protocols for authorizing the use of restrictive interventions, including treatment planning requirements and review/reauthorization procedures?  Yes  No * Required documentation when restrictive interventions are used?   Yes  No   * Required education and training of personnel involved in authorization and administration of restrictive interventions?   Yes  No |  |
| **G-2-b-ii: State Oversight Responsibility** | Does the waiver specify:   * The agency (or agencies) responsible for overseeing the use of restrictive procedures and ensuring that the state’s safeguards are followed?  Yes  No * When oversight is not performed by the Medicaid agency or the operating agency (if applicable), the process for the oversight agency to communicate information and findings to the Medicaid agency and/or operating agency?  Yes  No * Methods for detecting unauthorized use, over use or inappropriate/ineffective use of restrictive procedures and ensuring that all applicable state requirements are followed?   Yes  No * How data are analyzed to identify trends and patterns and support improvement strategies?   Yes  No * The methods for overseeing the operation of the incident management system including how data are collected, compiled, and used to prevent re-occurrence?  Yes  No * The frequency of oversight activities?   Yes  No |  |
| **G-2-c: Applicability** | * Is the state’s response consistent with the remainder of the waiver application?   Yes  No   * If the first choice is selected, does the state provide specific methods to detect unauthorized use of seclusion and specify the state agency (or agencies) responsible for conducting this oversight?   Yes  No   * Does the use of restrictive interventions comport with the home and community-based setting requirements at 42 CFR §§ 441.301(c)(4)(iii) and (vi)(F), and person-centered service planning and plan requirements at 42 CFR §§ 441.301(c)(1) and (c)(2)?   Yes  No  ***Note****: In cases where the waiver serves a population (e.g., ID or TBI, children with serious emotional disturbance) for whom the use of restraints and restrictive interventions is common and the state indicates that the Appendix does not apply, the reviewer is advised to confirm with the state that such interventions are prohibited. The state must complete Item G-2-c-ii. to describe how the state detects unauthorized use.* |  |
| **G-2-c-i: Safeguards Concerning the Use of Seclusion**  *(Complete only when the use of restraints and/or restrictive interventions is permitted during the course of the provision of waiver services regardless of setting.)* | For *each type of seclusion*  that is permitted, has the state identified safeguards that address:   * The use of alternative methods to avoid the use of seclusion?    Yes  No * Methods for detecting the unauthorized use of seclusion?   Yes  No * The protocols that must be followed when seclusion is employed (including the circumstances when their use is permitted) and how their use is authorized?  Yes  No * The practices that must be employed to ensure the health and safety of individuals?   Yes  No * Required documentation concerning the use of seclusion?   Yes  No   * Education and training requirements that personnel who are involved in the administration of seclusion must meet?   Yes  No |  |
| **G-2-c-ii: State Oversight Responsibility** | Does the state’s response specify:   * The agency (or agencies) responsible for overseeing the use of seclusion ensuring that the state’s safeguards are followed?   Yes  No * When oversight is not performed by the Medicaid agency or the operating agency (if applicable), the process for the oversight agency to communicate information and findings to the Medicaid agency and/or operating agency?  Yes  No * Methods for detecting unauthorized use, over use or inappropriate/ineffective use of seclusion and ensuring that all applicable state requirements are followed?   Yes  No * How data are analyzed to identify trends and patterns and support improvement strategies?   Yes  No * The methods for overseeing the operation of the incident management system including how data are collected, compiled, and used to prevent re-occurrence?  Yes  No * The frequency of oversight activities?   Yes  No |  |
| **G-3: Medication Management and Administration** | | **Analyst Notes** |
| **G-3-a: Applicability** | Does this waiver provide services to participants who are served in licensed or unlicensed living arrangements where a provider has round-the-clock responsibility for the health and welfare of residents?  Yes  No  ***Note:*** *If no,* *the remainder of this section does not need to be completed.* |  |
| **G-3-b: Medication Management and Follow-Up**  **G-3-b-i: Responsibility** | Does the waiver specify:   * The entity or entities responsible for ongoing monitoring of participant medication regimens?   Yes  No * The scope of monitoring (i.e., whether monitoring is designed to focus on certain types of medications or medication usage patterns)?   Yes  No * Methods for conducting monitoring?   Yes  No * Frequency of monitoring?   Yes  No * How monitoring has been designed to detect potentially harmful practices and follow-up to address such practices?   Yes  No * For waivers that serve individuals with cognitive impairments or mental disorders, how second-line monitoring is conducted concerning the use of behavior modifying medications?   Yes  No |  |
| **G-3-b-ii: State Oversight and Follow-up** | Does the waiver specify:   * The agency (or agencies) responsible for oversight?   Yes  No   * When oversight is not conducted by the Medicaid agency or the operating agency (if applicable), the process to communicate information and findings from monitoring are regularly communicated to the Medicaid agency and the operating agency (if applicable)?   Yes  No * How state monitoring is performed and how frequently?   Yes  No * How the state monitoring program gathers information concerning potentially harmful practices and employs such information to improve quality?  Yes  No |  |
| **G-3-c: Medication Administration by Waiver Providers**  **G-3-c-i: Provider Administration of Medications**  **G-3-c-ii: State Policy**  *(Complete only if waiver providers administer medications and/or are responsible for overseeing participants who self-administer medications.)* | Does the waiver specify:   * The state’s policies concerning the administration of medications to individuals who are unable to self-administer and the responsibilities of providers for overseeing self-administration?   Yes  No * If applicable, the training/education that non-medical waiver providers must have in order to administer medications to participants who cannot self-administer and the extent of the oversight of these personnel by licensed medical professionals?    Yes  No |  |
| **G-3-c-iii: Medication Error Reporting** | If applicable, does the waiver specify:   * The types of medication errors that providers must record and/or report?  Yes  No * When reporting is required, the agency to which errors are reported?  Yes  No |  |
| **G-3-c-iv. State Oversight Responsibility**  *(Only complete if waiver providers administer medications or are responsible for overseeing participants who self-administer medications.)* | Does the waiver specify:   * The state agency (or agencies) responsible forthe on-going monitoring of waiver provider agencies’ performance in administering participant medications?   Yes  No * When oversight is not conducted by the Medicaid agency or the operating agency (if applicable), the process to communicate information and findings to the Medicaid agency or the operating agency?   Yes  No * Monitoring methods that include the identification of problems in provider performance and support follow-up remediation actions and quality improvement activities?   Yes  No * How data are acquired to identify trends and patterns and support improvement strategies?   Yes  No |  |

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# Quality Improvement Strategy: Health and Welfare

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| --- | --- | --- |
| **QIS: Health and Welfare**  **Discovery and Remediation** | | **Analyst Notes** |
|  | Has the state described how the discovery of compliance with this assurance and the remediation of identified problems addresses:   * The state, on an on-going basis, identifies, addresses, and seeks to prevent the occurrence of abuse, neglect and exploitation**.**  Yes  No * The state, demonstrates that an incident management system is in place that effectively resolves incidents and prevents further similar incidents to the extent possible.   Yes  No   * The state policies and procedures for the use or prohibition of restrictive interventions (including restraints and seclusion) are followed.   Yes  No   * 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.   Yes  No   * How frequently oversight is conducted.   Yes  No * The entity (or entities) responsible for the discovery and remediation activities.  Yes  No   When the state lacks processes to produce data associated with discovery and remediation activities, the state employs timelines that include the following:   * Specific tasks associated with the design and implementation of discovery and remediation activities.   Yes  No * Major milestones for completing the improvement.   Yes  No |  |

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# Worksheet H: Systems Improvement

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| --- | --- | --- |
| **H-1: Systems Improvement** | | **Analyst Notes** |
|  | The QIS describes the roles and responsibilities of entities and persons involved in collecting discovery and remediation information, analyzing that information, recommending system improvements, and analyzing the effectiveness of the improvement initiatives.   Yes  No  The QIS describes the processes that are employed to review findings, establish priorities, develop strategies, and assess effectiveness of system improvements.  Yes  No  The QIS describes   * The types of quality improvement reports that are compiled.   Yes  No   * The frequency with which such reports are compiled.  Yes  No * How results are communicated, and with what frequency, to agencies, waiver providers, participants, families and other interested parties, and the public.   Yes  No   The QIS describes the process and frequency for evaluating and updating the QIS (i.e., once during the waiver period and prior to renewal).   Yes  No  When the state does not have a fully developed Quality Improvement Strategy, there is a work plan that addresses each element where improvements will take place during the waiver period including the following:   * Specific tasks associated with the improvement.  Yes  No * Major milestones and dates for completing the improvements.   Yes  No   * The entity (or entities) responsible for completing these tasks.   Yes  No   When the QIS spans more than one waiver and/or other types of long-term care services under the Medicaid state plan, the QIS:   * Stratifies information for each respective waiver.   Yes  No * Provides control numbers of the other waivers.   Yes  No * Provides the other long term care services addressed in the QIS.  Yes  No |  |

# Instrument for Reviewing 1915 (c) Waiver Applications

# Worksheet I: Financial Accountability

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| **I-1: Financial Integrity and Accountability**  *It is advisable to refer to the Instructions for a complete description of the information requested.* | | **Analyst Notes** |
| **Description** | Does the waiver:   * Specify whether providers are required to secure an independent audit of their financial statements?   Yes  No * Describe the state’s post-payment review program, including the methods, frequency, and scope of review?   Yes  No * Provide for a post-payment review program that is adequate to assure the integrity of payments?   Yes  No * Specify responsibilities for conducting post-payment review activities?  Yes  No * Identify the entity responsible for conducting the periodic independent audit of the waiver program under the provisions of the Single Audit Act?  Yes  No * In the case of section 1915(c) waivers that operate with a concurrent Medicaid managed care authority (only answer the two items below if applicable), does: * the above criteria apply only to services not included in the capitation rate?   Yes  No * the state include information under the appropriate managed care authority information to ensure financial accountability of payments made to managed care entities that meets managed care requirements and criteria?   Yes  No   ***Note:*** *HCBS waivers (like other Medicaid services) are subject to requirements of the Single Audit Act (31 U.S.C. 7501-7507) as amended by the Single Audit Act Amendments of 1996 (P.L. 104-146).* |  |

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# Quality Improvement Strategy: Financial Accountability

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| **QIS: Financial Accountability**  **Discovery and Remediation** | | **Analyst Notes** |
|  | |  | | --- | | * Has the discovery of compliance with this assurance and the remediation of identified problems addressed how the Medicaid agency assures compliance with the following financial accountability assurances?   + State financial oversight exists to assure that claims are coded and paid for in accordance with the reimbursement methodology specified in the approved waiver.  Yes  No   + How frequently oversight is conducted.   Yes  No   + The entity (or entities) responsible for the discovery and remediation activities.   Yes  No   * When the state lacks processes to produce data associated with discovery and remediation activities, the state employs timelines that include the following:   + Specific tasks associated with the design and implementation of discovery and remediation activities.   Yes  No   + Major milestones for completing the improvement.   Yes  No | |  | |  |

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| --- | --- | --- | --- | --- |
| **I-2: Rates, Billing and Claims** | | | | **Analyst Notes** |
| **I-2-a: Rate Determination Methods** | | | Does the waiver:   * Describe the rate setting methods that it uses for each waiver service. If rates are not uniform for every provider of a waiver service, does the waiver describe the basis for the variation?   Yes  No * Describe the rate setting methodology for self-directed services, if applicable?   Yes  No * Specify the entity or entities responsibility for rate determination and how oversight of the rate determination process is conducted?   Yes  No * Specifies the year rates were set and the year in which rates were last reviewed?   Yes  No * Describe how the Medicaid agency solicits public comments on rate determination methods?   Yes  No * Describe how information about payment rates is made available to waiver participants?   Yes  No * Describe the state’s rate review methods and processes?   Yes  No   In the case of waivers with approved concurrent managed care authority (e.g. 1915(b), 1932(a), 1115, the foregoing criteria apply only to services not included in the capitation rate. The method of determining the capitation rate is subject to managed care requirements and criteria.  ***Note:*** *Waiver payment rates may be determined in a variety of ways and frequently the methods that are employed vary by type of service. Rates may be prospective or provide for retrospective cost settlement of interim rates. Rates also may incorporate “difficulty of care” factors to take into account the level of provider effort associated with serving individuals who have differing level of support needs; rates may also include geographic adjustment factors to reflect differences in the costs of furnishing services in different parts of the state.* |  |
| **I-2-b: Flow of Billings** | | | Does the waiver:   * Describe the flow of billings from the waiver service provider to the state so that it is clear how a provider invoice becomes a claim to Medicaid?   Yes  No * Provide for the direct billing of waiver services to the state?  Yes  No   In the case of managed care/section 1915(c) concurrent waivers, the foregoing criteria apply only to services not included in the capitation rate. Otherwise, flow of billings is subject to managed care requirements and criteria. |  |
| **I-2-c: Certifying Public Expenditures** | | | * Does the state use CPEs?   Yes  No  N/A * When CPEs are made, does the waiver specify:   + The state and/or local government agencies that certify the expenditures?   Yes  No   * + The processes used to ensure that CPEs are based on total computable waiver costs?   Yes  No   * + The processes to verify that the CPEs are eligible for federal financial participation?   Yes  No |  |
| **I-2-d: Billing Validation Process** | | | Do the billing validation methods address the three essential tests (below):   * The individual was eligible for Medicaid waiver payment on the date of service?   Yes  No * The service was included in the participant’s approved service plan?  Yes  No * The services were provided?   Yes  No |  |
| **I-2-e: Billing and Claims Record Maintenance Requirement** | | | No review required |  |
| **I-3: Payment** | | | | **Analyst Notes** |
| **I-3-a: Methods of Payments -- MMIS** | | * Are payments for all waiver services made through an approved MMIS?  Yes  No * If **No**, does the waiver specify:   + The processes that are used to make payment?   Yes  No   + How the processes ensure the maintenance of a proper audit trail?   Yes  No   + That providers may receive payment directly from the Medicaid agency?  Yes  No * When payments for waiver services are made by a managed care entity or entities, does the waiver describe how the monthly capitated payments are made to the managed care entity or entities?   Yes  No  N/A | |  |
| **I-3-b: Direct Payment** | | * Does the Medicaid agency make payments directly to providers of waiver services?   Yes  No * When a limited fiscal agent is employed, does the waiver specify:   + The entity or entities that serve as a limited fiscal agent?   Yes  No   + The payment functions performed by the limited fiscal agent?  Yes  No   + How providers are informed about the process for billing Medicaid directly?   Yes  No   + How the Medicaid agency exercises appropriate oversight of the limited fiscal agent?   Yes  No * When providers are paid by a managed care entity or entities for services that are included in the state’s contract with the entity, does the waiver specify how providers are paid for the services (if any) not included in the state’s contract with managed care entities?   Yes  No  N/A | |  |
| **I-3-c: Supplemental or Enhanced Payments** | | * Does the state make supplemental or enhanced payments for waiver services?   Yes  No * If **Yes**: * Does the waiver specify the nature of the payments that are made and the waiver services for which these payments are made; and the types of waiver providers that receive such payments?   Yes  No * Does the waiver specifies the source of the non-federal share of the supplemental or enhanced payments.   Yes  No * Does the waiver specify that providers eligible to receive the supplemental or enhanced payment must be able to retain 100% of the total computable expenditure claimed by the Medicaid agency to CMS?   Yes  No * Is the basis of such payments transparent (i.e., is it clear to the public which providers would receive the additional payments and under what circumstances)?   Yes  No | |  |
| **I-3-d: Payments to Public Providers** | | * Does the state make payments to state or local government providers for the provision of waiver services?    Yes  No * If **Yes**, does the waiver specify the types of entities that furnish services and the services that they furnish?    Yes  No | |  |
| **I-3-e: Amount of Payment to Public Providers** | | * Do state or local government providers receive payments (including regular or supplemental) that in the aggregate exceed the cost of waiver services?  Yes  No * If **Yes**: has the state: * Specified how the state recoups the excess and returns the federal share of the excess to CMS on the quarterly expenditure report?   Yes  No * Specified a satisfactory recoupment process?   Yes  No | |  |
| **I-3-f: Provider Retention of Payments** | | * Does the waiver comport with the requirement that waiver service providers must receive and retain 100% of the total computable expenditures claimed by the SMA to CMS?   Yes  No | |  |
| **I-3-g: Additional Payments Arrangements**  **I-3-g-i: Voluntary Reassignment of Payments to a Governmental Agency** | | * Does the state allow for providers to voluntarily reassign their direct payment to a governmental agency?   Yes  No | |  |
| **I-3-g-ii: Organized Health Care Delivery System** | | * Does the state use Organized Health Care Delivery System arrangements?  Yes  No * If **Yes**, * Does the state describe the types of entities that are designated as an OHCDS?   Yes  No * Are the state’s methods of designating entities to function as OHCDS specified, and do these entities meet the regulatory definition of an OHCDS?   Yes  No * Do OHCDS arrangements preserve participant free choice of providers?  Yes  No * Waiver providers should not be required to contract with an OHCDS in order to furnish services to participants. Are they?    Yes  No * Are there adequate safeguards to ensure that OHCDS subcontractors possess the required qualifications?   Yes  No * Does the OHCDS arrangement provide for appropriate financial accountability safeguards?   Yes  No | |  |
| **I-3-g-iii: Contracts with MCOs, PIHPs, or PAHPs** | | * Does the state contract with MCOs, PIHPs or PAHPs for the provision of waiver services?   Yes  No * If **Yes**, when waiver services are furnished by managed care entities under the provisions of §1915(a)(1) that provide for the voluntary enrollment of waiver participants, does the waiver specify: * The geographic areas served by these organizations?   Yes  No * The services furnished by these organizations?   Yes  No * How payments are made to organizations?   Yes  No | |  |
| **I-4: Non-Federal Matching Funds** | | | | **Analyst Notes** |
| **I-4-a: State Level Source(s) of the Non-Federal Share of Computable Waiver Costs** | * For the non-federal share of computable waiver costs, does the state appropriate state tax revenue to the state Medicaid Agency?   Yes  No * If **No**, when the non-federal share is from sources other than the direct appropriation of state tax revenues to the Medicaid agency: * Are the state-level sources of the non-federal share of computable waiver costs are specified?   Yes  No * Do the underlying sources of these funds meet applicable federal requirements?   Yes  No * When IGT or CPEs are used, is the mechanism used to transfer funds to the Medicaid agency or verify the expenditures specified and does it meet federal requirements?   Yes  No * When CPEs are utilized, is the criteria are met consistent with I-2-c?  Yes  No | | |  |
| **I-4-b. Local or Other Source(s) of the Non-Federal Share of Computable Waiver Costs** | * Does the state specify the source or sources of the non-federal share of computable waive costs that are not from state sources?   Yes  No  N/A * If **Yes**, when there are local government sources of the non-federal share: * Are the local sources of the non-federal share of computable waiver costs specified?   Yes  No * Do the underlying sources of these funds meet applicable federal requirements?   Yes  No * When IGTs or CPEs are used, the mechanism used to transfer funds to the state Medicaid agency and/or to verify that expenditures are specified and meet federal requirements?   Yes  No * When CPEs are employed, are the responses here consistent with I-2-c?  Yes  No | | |  |
| **I-4-c: Information Concerning Certain Sources of Funds** | * Does the waiver comport with the requirement that only permissible sources are utilized to fund the non-federal share?   Yes  No | | |  |
| **I-5: Exclusion of Medicaid Payment for Room and Board** | | | | **Analyst Notes** |
| **I-5-a: Services Furnished in Residential Settings**  **I-5-b: Method for Excluding the Cost of Room and Board Furnished in Residential Settings** | * Does the waiver furnish services in residential settings other than the private residence of the individual?   Yes  No * If **Yes**, does the methodology employed assure that the costs of room and board have been isolated and excluded from payments for services in applicable residential settings?   Yes  No | | |  |
| **I-6: Payment for Rent and Food Expenses of an Unrelated Live-In Caregiver** | | | | |
|  | * Does the state reimburse for the rent and food expenses of an unrelated live-in personal caregiver?   Yes  No * If **Yes**, * Does the apportionment method used provide that only the participant’s additional rent and food costs associated with having a live-in caregiver are reimbursed?   Yes  No * Are only the costs incurred by the participant reimbursed?   Yes  No * Does the method of making payment for a live-in caregiver route the payment through the provider but clearly provide for the reimbursement of the participant?   Yes  No | | |  |
| **I-7: Participant Co-Payments for Waiver Services and Other Cost Sharing** | | | | **Analyst Notes** |
| **I-7-a: State Requirement for Co-pays**  **I-7-a–i: Co-pay Arrangement**  **I-7-a-ii. Participants Subject to Co-Pay Charges for Waiver Services**  **I-7-a-iii. Amount of Co-Pay Charges for Waiver Services**  **I-7-a-iv. Cumulative Maximum Charges** | * Does the state impose a premium, enrollment fee, or similar charge on waiver participants?   Yes  No * If **Yes**, * Are the types of charges imposed on waiver participants specified?  Yes  No * Is the amount of the charge(s) specified? * Do the groups subject to the charge and groups excluded comply with the applicable provisions of 42 CFR § 447.56? * Does the state specify for each waiver service for which a co-payment is made, the amount and basis of the charge? The amount of the co-payment charge may not exceed the schedule of allowable charges contained in 42 CFR § 447.54(a)(3) that establishes maximum charges based on the cost of a service.   Yes  No * Does the state specify whether there is a cumulative maximum amount of co-payments that may be charged to a waiver participant?   Yes  No | | |  |
| **I-7-b: Other State Requirements for Cost Sharing** | * Does the cost sharing arrangement comply with the applicable requirements contained in 42 CFR § 447.50 *et seq*? * Does the state specify the mechanisms for the collection of charges and reporting the amount collected on the CMS 64? Premiums and cost sharing amounts must be applied to reduce the computable claim for federal financial participation.  Yes  No | | |  |

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# Instrument for Reviewing 1915 (c) Waiver Applications Worksheet J: Cost Neutrality Demonstration

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| **J-1: Composite Overview and Demonstration of Cost-Neutrality Formula**  It is advisable to refer to the Instructions for a complete description of the information requested. | | **Analyst Notes** |
| **Composite Overview** | * Does the data make sense and align across the waiver years?   Yes  No * Is the waiver cost neutral for each waiver year?   Yes  No |  |
| **J-2: Derivation of Estimates** | | **Analyst Notes** |
| **J-2-a: Number of Unduplicated Participants Served** | * Does the unduplicated count align and make sense across the waiver years?   Yes  No |  |
| **J-2-b: Average Length of Stay** | * Did the state provide a complete description of the basis of the ALOS estimate?  Yes  No |  |
| **J-2-c: Derivation of Estimates for Each Factor**  **J-2-c-i: Factor D Derivation**  **J-2-c-ii: Factor D’ Derivation:**  **J-2-c-iii: Factor G Derivation**  **J-2-c-iv: Factor G’ Derivation** | * Are the state’s basis and methodology used to determine the Factor D value based on the estimated: * Number of users?   Yes  No * Units/user?   Yes  No * Cost/unit?   Yes  No * Is Factor D’ greater than or equal to Factor G’?   Yes  No * If **No**, does the state provide an explanation for this?   Yes  No * Is Factor D’ developed through sampling a comparable population?   Yes  No * If **Yes**, has the state provided information on the process used and how the D’ value was derived?   Yes  No * Is the basis for each Factor estimate fully documented, evidence-based, and appropriately justified?   Yes  No * Are any deviations from CMS 372(S) data adequately explained, justified, and documented?   Yes  No * Does the projected first year G’ value not deviate substantially from previous year trends unless the state has altered its Medicaid program?  Yes  No * Does the state’s factor D, D’, G and G’ derivation detail the trend factors, including details of the data sources, how factors were trended forward, and justification of using sources outside of CMS-372(S) reports? |  |
| **J-2-d: Estimate of Factor D**  **J-2-d-i: Estimate of Factor D – Non-Concurrent Waiver**  **J-2-d-ii: Estimate of Factor D – Concurrent §1915(b)/§1915(c) Waivers** | * For **Non-Concurrent Waivers**: * Is the unit of service identified for each service?   Yes  No * Does the estimated number of units per user reflect the estimated ALOS rather than the potential maximum number of service units that a participant may utilize?   Yes  No      * For **Concurrent Waivers**, when there are services paid outside the capitation rate, has the state calculated: * The total of all waiver costs?   Yes  No * The subtotal for services paid within the capitation rate?   Yes  No * The subtotal for services paid outside the rate?   Yes  No * The average cost per unduplicated participant for all waiver services?  Yes  No * The average costs for services paid within and outside the capitation rate?  Yes  No |  |

1. The Medicaid Statute, 1915(c)(2)(A) states that “A waiver shall not be granted…unless the State provides assurances satisfactory to the Secretary that necessary safeguards…. have been taken to protect the health and welfare of individuals provided services under the waiver and to assure financial accountability for funds expended with respect to such services.” [↑](#footnote-ref-1)