



**Office for People With
Developmental Disabilities**

**Overview of Draft OPWDD 1915 (c)
Comprehensive Home and
Community-Based Services (HCBS)
Waiver Amendment
Effective October 1, 2023**

April 12, 2023

Purpose of Today's Session. . .

- Review draft October 1, 2023 Waiver Amendment of the OPWDD 1915(c) Comprehensive Home and Community-Based Services (HCBS) Waiver.
- Help stakeholders focus their review on the sections of the Waiver that are most important to them.



Today's Topics

Where Can I Find the Waiver?

- OPWDD Website
- OPWDD Regional Offices

Public Comment

- When is the Comment Period?
- How Can I Submit My Comments?

What is the Waiver?

- Waiver Amendment?
- How is the Application Organized?

Overview of Changes

- Programmatic
- Fiscal
- Quality & Administrative

Where Can I Find the Waiver?

OPWDD Website

- The draft October 1, 2023 Waiver Amendment is available on the OPWDD website at:
<https://opwdd.ny.gov/providers/home-and-community-based-services-waiver>

OPWDD Regional Offices

- Hard copies of the draft October 1, 2023 Waiver Amendment are available at all 14 OPWDD Developmental Disabilities Regional Office (DDRO) locations throughout the State.

OPWDD Regional Offices

- **Finger Lakes DDRO**, 620 Westfall Road/ Suite 326, Rochester, NY 14620
- **Western NY DDRO**, 1200 East & West Rd., Building 16, West Seneca, NY 14224
- **Broome DDRO**, 249 Glenwood Road, Binghamton, NY 13905
- **Central NY DDRO**, 187 Northern Concourse, North Syracuse, NY 13212
- **Sunmount DDRO**, 2445 State Route 30, Tupper Lake, NY 12986
- **Capital District DDRO**, 500 Balltown Road, Schenectady, NY 12304
- **Hudson Valley DDRO**, 9 Wilbur Road, Thiells, NY 10984
- **Taconic DDRO**, 38 Firemens Way, Poughkeepsie, NY 12603
- **Bernard Fineson DDRO**, 80-45 Winchester Boulevard, Building 80, 2nd Floor Administrative Suite, Queens Village, NY 11427
- **Metro NY DDRO/ Bronx**, 2400 Halsey St., Bronx, NY 10461
- **Brooklyn DDRO**, 750 Vandalia Avenue, Brooklyn, NY 11239
- **Metro NY DDRO/ Manhattan**, 25 Beaver Street, 3rd Floor, New York, NY 10004
- **Staten Island DDRO**, 930 Willowbrook Rd., Staten Island, NY 10314
- **Long Island DDRO**, 415-A Oser Ave., Hauppauge, NY 11788



Public Comment

When is the Comment Period?

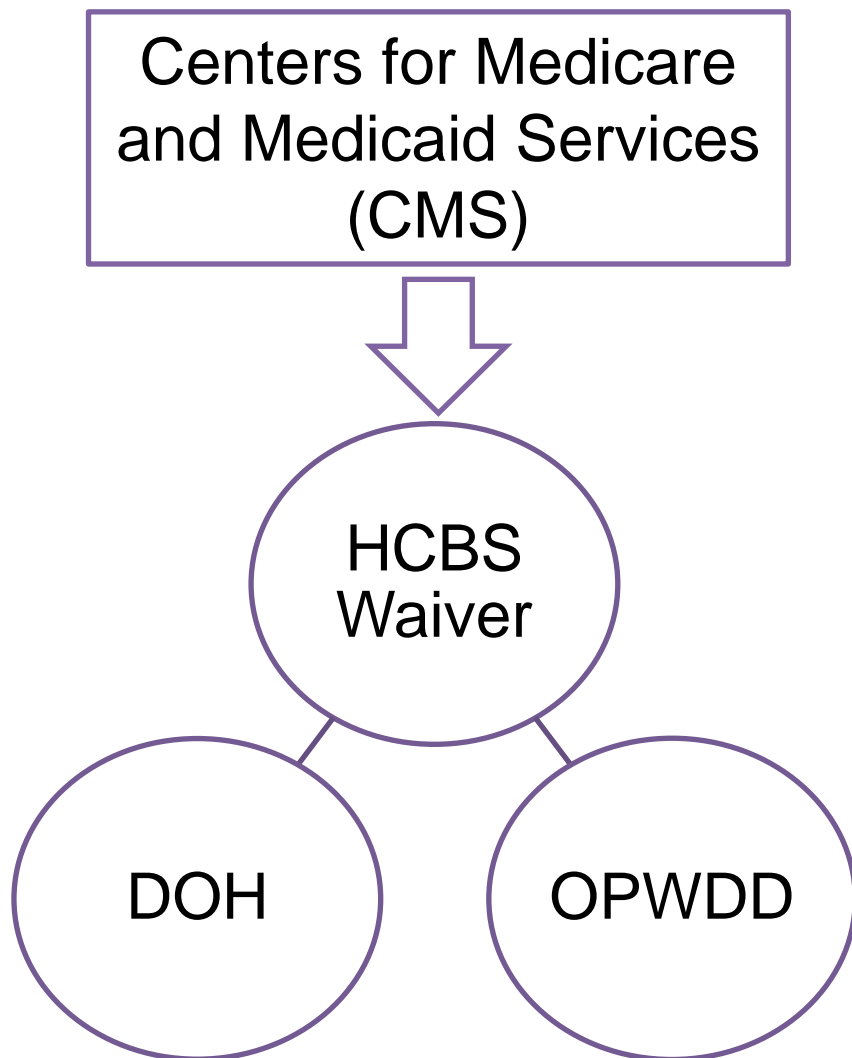
- The draft October 1, 2023 Waiver Amendment was posted on OPWDD's website on April 12, 2023.
- Written comments accepted through May 12, 2023.

How Can I Submit My Comments?

- By Mail: OPWDD, Division of Policy and Program Development, 44 Holland Ave, Albany, NY 12229.
- Email: Peoplefirstwaiver@opwdd.ny.gov



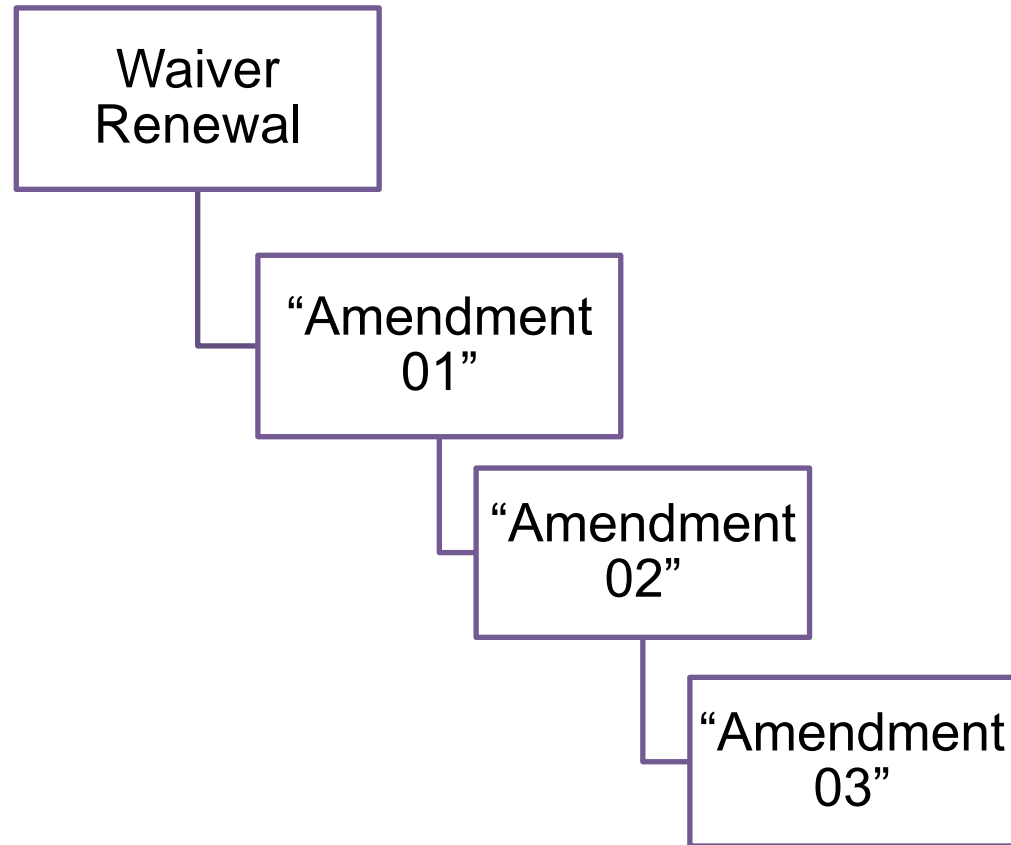
What is the Waiver?



- New York State (NYS) authority to provide HCBS to individuals with Intellectual and Developmental Disabilities (I/DD).
- Collaboration of work between OPWDD and DOH for submission to CMS for approval.

Why “Amendment”?

- Every 5 years NYS submits a Waiver Renewal application to CMS.
- Edits made to an existing Renewal application are called “amendments.”
- In response to the COVID emergency, NYS obtained temporary OPWDD HCBS Waiver flexibilities from CMS via several Appendix K amendments.



Effective Date?

Proposed effective date of
this Waiver Amendment is
October 1, 2023

How is the Waiver Organized?

Main

- Purpose and Review of Application
- Pages 1-17

Appendix A

- Waiver Administration and Operation
- DOH and OPWDD responsibilities
- Pages 17-37

Appendix B

- Participant Access and Eligibility
- Waiver access and eligibility processes
- Pages 37-58

How is the Waiver Organized?

Appendix C

- Participant Services
- Service descriptions including service limits and provider qualifications
- Pages 58-166

Appendix D

- Participant-Centered Planning and Service Delivery
- Care Management
- Pages 166-195

Appendix E

- Participant Direction of Services
- Self-Direction
- Pages 196-211

How is the Waiver Organized?

Appendix F

- Participant Rights
- Fair Hearing, additional dispute resolution process, and NYS grievance/complaint system
- Pages 212-214

Appendix G

- Participant Safeguards
- Incident management, restraints and restrictive interventions, medication management and administration
- Pages 214-258

Appendix H

- Quality Improvement Strategy
- NYS DOH and OPWDD internal and external processes for waiver quality improvement
- Pages 258-265

How is the Waiver Organized?

Appendix I

- Financial Accountability
- Waiver audit procedures
- Pages 265-291

Appendix J

- Cost-Neutrality Demonstration
- Fiscal projections for Fee-For-Service and Managed Care throughout five year waiver period 2019-2024
- Pages 292-316

Addendum A

- Rate methodology language for waiver services
- Pages 317-366
- Methodology attachments Addendum A.2, A.5
- Pages 367-369

Overview of Changes

Programmatic Changes



When will Program Changes take Effect?

- We are asking for CMS approval effective 10/1/23.
- We don't expect to have approval before the end of September.
- In order to have a new service available – there is still work to do after CMS Approval before implementation can occur.

Programmatic Changes

Assistive Technology, Environmental Modifications, Vehicle Modifications:

Return to higher, “hard limits” on AT, E-Mod, & V-Mod:

- **AT:** \$25,000 (inclusive of \$5,000 for new Home Enabling Supports)
- **E-Mods:** \$60,000/5 years
- **V-Mods:** \$35,000 (\$65,000 for complex modifications. e.g., modifications to allow a person who uses a wheel chair to drive the vehicle)

Hard limits mean the Waiver cannot pay more than these limits for any modifications or devices. The return to prior practice will provide more timely approvals with limits that will allow the vast majority of requests to be approved. (AT Page 108; E-Mod Page 119; V-Mod Page 135)

Programmatic Changes

Assistive Technology:

- Effective on or after 10/1/2023, OPWDD will add Home-Enabling Supports to the AT Benefit for individuals who do not live in a certified setting.
- \$5,000 limit (within total AT limit) direct billed by provider.
- Opportunity to pay for remote supports.
- Page 108-109 and Page 358

Vehicle Modifications:

- Changes are made to support more efficient implementation through direct provision by approved providers.
- Page 135

Programmatic Changes

Residential Habilitation/Respite Modification - Senior Programs:

- Changes to the Residential Habilitation service definition that will allow an exception to the prohibition on receiving Respite services for people who live in certified settings:
 - Above the age of 60 and who
 - Choose to participate in a Respite program for seniors,
 - Services take place outside the residence.
- This action is intended to address the participants' retirement-related needs for socialization and engagement outside the residence.
- Pages 74 – 76 and 82

Programmatic Changes

Higher Needs:

- Expansion of qualifying factors around the definition of significant qualifying events. This is a descriptive change but does not need to reflect the new administrative changes to make Tier 3 payments more streamlined.
- Pages 77-78

Remote Delivery of Service

Family Education and Training:

- Allowance for these services to be delivered via remote technology.
- Pages 121-122

Programmatic Changes

Individual Directed Goods & Services

- The IDGS chart is currently in waiver and available on the OPWDD website with the Administrative Directive Memorandum (ADM) 2015-ADM-05R.
- The IDGS chart's removal from the waiver allows revisions via ADM and not waiver amendment.
- Page 100

Programmatic Changes

Minor Technical Updates:

- **Move of Residential Facility Specifications:**
 - Change required per CMS direction
 - The waiver application template includes “Appendix C-2-c”
 - Page 137 (old), 163 (new)
- **Additional references to 14 NYCRR Part 625 and 636 as applicable:**
 - Part 625: Various Locations
 - Part 636: Various Locations

Overview of Changes

Fiscal Changes



Fiscal Changes

COLA Increase Authorizing Language:

- These changes, will allow the State to update the values for the fees and PRAs in accordance with legislatively mandated cost of living adjustments, or any other form of reimbursement applicable to these services, without needing to delay implementation pending the submission and approval of future waiver amendments.
- Various Locations

Fiscal Changes

Rebasing Costs:

- Change how long OPWDD has to determine service provider payment amounts from four years to five years starting July 1, 2024, so that OPWDD can evaluate the potential impact of the COVID-19 pandemic on provider costs.
- Page 344

Fiscal Changes

Self-Direction Table and Chart:

- Removal of the Self-Direction Fiscal Intermediary (FI) and Broker fees and the Personal Resource Account (PRA) Table from the Waiver
- The Self-Direction FI and Broker fees and the PRA Table will now be available on the NYS Department of Health (DOH) website.
- These revisions will facilitate updates on a more timely basis to reflect payment increases authorized in state law
- For the public comment period – fee tables are available on the OPWDD website HCBS landing page
(<https://opwdd.ny.gov/providers/home-and-community-based-services-waiver>)

Fiscal Changes

CFR Penalties:

- Eliminates the second phase of CFR penalty (50%) for late provider CFR submissions.
- Retains the first phase of the CFR penalty (2%) for late provider CFR submissions.
- Various Locations

Therapy Days and Leave Days Does Not Change:

- Therapy Leave and Leave Day descriptions remain 'as is' - both have an effective date on or after October 1, 2020.
- Page 319

Fiscal Changes

Limit on Admin Reimbursement:

- Continue delayed implementation of the 15% cap on administrative cost reimbursement, while maintaining the flexibility to implement on or after 10/1/2023.
- Page 317

Occupancy Adjustment:

- Old language: Effective October 1, 2020, an Occupancy Factor will no longer be calculated and applied to the provider's rate.
- New language: Effective on or after October 1, 2020 , an Occupancy Factor will no longer be calculated and applied to the provider's rate.
- Pages 277, 319 and 322

Fiscal Changes

Language Clarifying Use of One-Time Bonuses in Rate Setting:

- Language is being added to clarify that one-time bonuses and similar funding/costs that are reported in the CFR may be excluded for rate setting purposes.
- “Effective on or after October 1, 2023, allowable operating costs may exclude workforce bonus payments authorized by State law and/or otherwise approved by the federal government including, but not limited to, funding related to the American Rescue Plan Act.”
- Page 319

Continuation of COVID flexibility

Intensive Behavioral Services:

- Make permanent the temporary COVID-19 rate enhancements.
- Page 362

Continuation of COVID flexibility

To/From Transportation Rebasing:

- Add language that beginning 7/1/2024 annual updates using CFR data for Day Habilitation and Site-Based Prevocational services to/from transportation will resume.
- Page 277, 339 and 348

Overview of Changes

Quality & Administrative Changes



Quality Changes

Scope of DQI Reviews:

- Changes to support a risk-stratified methodology for conducting DQI on-site visits
- Sites in good standing may be subject to either a truncated on-site review or a “remote” review during years that the complete site visit is not conducted.
- Prioritizing survey activities to focus on certified sites with greater need for remediation
- Minor Changes throughout document - explained on Page 2

Administrative Changes

Minor Technical Updates:

- **Service Access**: Revision to waiver access section, to place people who are ready for discharge from residential schools, developmental centers or nursing homes in the highest need group.
- No change for others (for example, people living with families whose caregiver can no longer provide care remain in the highest need group).
- Page 44
- **Language Access**: Updates to reflect current rules for language access
- Page 58

Administrative Changes

Minor Technical Updates:

- **PROMOTE**: updates for the PROMOTE curriculum replacing SCIP-R in those agencies who have OPWDD approval
- Pages 221 and 226

- **Medication Administration**: updates to comport Waiver and Administrative Directive Memorandum (ADM) language
 - 2021-ADM-06 “Allowance to Transfer Approved Medication Administration Personnel (AMAP) Certifications Between Provider Agencies”
 - 2022-ADM-05 “Medication Administration Training Curriculum for Direct Support Staff”
- Pages 231 and 232

Questions

A link to a recording of this presentation will be available on the OPWDD website at:

<https://opwdd.ny.gov/providers/home-and-community-based-services-waiver>

Contact Us: People First Waiver Mailbox

peoplefirstwaiver@opwdd.ny.gov

