NEW YORK STATE OF OPPORTUNITY. | Office for People With Developmental Disabilities

Memorandum

TO: Care Coordination Organizations (CCO)
Developmental Disabilities Regional Offices (DDRO) Directors
Revenue Support Field Offices (RSFO)

FROM: Katherine Marlay, Deputy Commissioner, Division of Policy and Program Development

Abiba Kindo, Deputy Commissioner, Regional Offices

DATE: August 24, 2021

SUBJECT: Office for People With Developmental Disabilities (OPWDD) Home and Community Based Services (HCBS) Waiver Application Process for Children Who Require Waiver of Parental Deeming

PURPOSE

This memorandum describes the OPWDD 1915(c) HCBS Waiver application process for children in need of OPWDD 1915(c) HCBS Waiver services and who require waiver of parental deeming in order to be eligible for Medicaid.

BACKGROUND

Children seeking OPWDD services may require Medicaid eligibility. In some cases, a child may not qualify for Medicaid based on their family's income and resources. In these cases, the child can ask for the parental income and resources to not be counted (a waiver of parental deeming) in order to access OPWDD's home and community-based services (i.e., 1915(c) HCBS Waiver).

A complete HCBS Waiver application must be submitted prior to requesting waiver of parental deeming. **Effective October 1, 2021** a complete OPWDD 1915(c) HCBS Waiver application ("waiver application") includes the criteria identified in the discussion below, including a Request for Service Authorization (RSA).

DISCUSSION

1) Waiver Application

Before a child can request a waiver of parental deeming, their Care Manager/CCO must submit a complete waiver application to OPWDD. A complete OPWDD waiver application must include:

a) Application for Participation in OPWDD 1915(c) HCBS Waiver and Documentation of Choices;
b) Level of Care Eligibility Determination (LCED) (signed by a Qualified Intellectual Disabilities Professional (QIDP), Physician/Nurse Practitioner and DDRO Director Designee);
c) Pre-enrollment Evaluations (including Psychological, Physical, and Social);
d) Request for Service Authorization (RSA) (*see* section 2 Request for Service Authorization); and
e) Life Plan or In-Process Life Plan (not required during the federal Public Health Emergency).

The CCO must submit the complete waiver application to the DDRO by:

- Completing a documentation submission form in CHOICES;
- Uploading the Waiver application to CHOICES; and
- Sending an alert to the CCO Alert mailbox notifying the local DDRO that the application has been uploaded.

2) Request for Service Authorization

The RSA form is used to document the OPWDD services an individual wants and needs. This includes the service type, service amount (e.g., units), and agencies agreeing to provide the service (if known). For children who require waiver of parental deeming, the RSA may be signed by the CCO intake staff, rather than a Care Manager.

3) DDRO Responsibilities

The DDRO will review the waiver application, including the RSA, and make a determination on whether to enroll the child in the HCBS Waiver. The DDRO may ask for more information to make its determination.

If the DDRO determines the child is eligible for enrollment in the HCBS Waiver, OPWDD will issue a Letter of Introduction requesting the local Department of Social Services (DSS) waive parental deeming for purposes of Medicaid eligibility.

If a determination is made that the child is not eligible for enrollment in the HCBS Waiver, the DDRO will issue a Notice of Decision (NOD.02 Denial of Participation in the OPWDD Medicaid Home and Community Based Services (HCBS) Waiver Program) informing the individual and their representative of their due process rights.