



COMMONWEALTH OF VIRGINIA
Virginia Board for People with Disabilities

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September 3, 2024

TO: Department of Medical Assistance Services
ATT: Andrew Greer/Senior Policy Analyst – Office of Community Living
Sent via email: Andrew.greer@dmas.virginia.gov

FROM: Teri Morgan

RE: Comment on Virginia’s Amendment Applications for its §1915(c) Home- and Community-Based Waivers for Individuals with Developmental Disabilities— Building Independence, Community Living, Family and Individual Support, and Commonwealth Coordinated Care Plus Waivers

I am writing to provide comments on behalf of the Virginia Board for People with Disabilities (the Board) regarding Virginia’s *Request for an Amendment to a §1915(c) Home and Community-Based Services Waiver: Building Independence (BI), Community Living (CL), Family and Individual Supports (FIS) and Commonwealth Coordinated Care Plus (CCC Plus) waivers*. The Board appreciates the opportunity to provide input.

BI, CL, and FIS Waivers:

1. *Combining the annual service limits for Assistive Technology and Electronic Home-Based Services into one annual \$10,000 limit to be shared between the two services. (BI, CL, FIS)*

Comment: Combining annual service limits for Assistive Technology and Electronic Home-Based Services provides the flexibility needed to allow individuals to access these waiver services more effectively. The current limits of \$5,000 each are often insufficient to the point of making these waiver services inaccessible to individuals. The Board supports this amendment.

2. *Permit the allowance for individuals offered a Developmental Disabilities Waiver slot to delay enrollment into the waiver for up to 1 year. (BI, CL, FIS)*

Comment: This change is necessary to prevent individuals from losing a waiver slot simply due to provider availability, which is out of the individual's control. The additional time will give individuals a greater chance of being able to locate the needed providers and begin services. This change is particularly timely with the influx of new waiver slots for the priority one waitlist in this biennium. The Board supports this amendment.

3. *Appendix B: f. Process for Level of Care Evaluation/Reevaluation: Per 42 CFR §441.303(c)(1),*

Narrative: c) The VIDES (level of care instrument) completed no more than six months prior to enrollment. The CSB determines whether the individual meets the ICF/IID criteria with input from the individual, his family/caregiver, as appropriate, and service/support providers involved in the individual's support in the community;

Comment: Considering the one-year delay in enrollment for an individual offered a DD waiver slot, could this requirement be changed to a VIDES completed within 12 months prior to enrollment. Allowing this change could help alleviate the administrative burden of conducting a new VIDES assessment due to the enrollment delay.

4. *Disregard Social Security Disability Insurance (SSDI) benefits above the maximum Social Security Insurance (SSI) benefit limit as determined by the Social Security Administration for purposes of pre-eligibility treatment of income. (BI, CL, FIS)*

Comment: This change will remove the penalty for those who receive SSDI benefits, potentially risking Medicaid eligibility. This is a very important update to the policies around pre-eligibility treatment of income. The receipt of SSDI benefits should never be a disqualifying factor to receiving needed Medicaid Waiver long-term services and supports and opportunities for employment. The Board supports this amendment.

CL, FIS, and CCC Plus Waivers:

5. *Amend the rules for when a Legally Responsible Individual (spouse or parent of a minor) is a paid aide/attendant for personal care/personal assistance. (CL, FIS, CCC+)*

Comment: The policy change to allow legally responsible individuals (LRIs) to provide personal assistance services recognizes the valuable role of family caregivers in keeping families together and stable, leading to better overall health and well-being of families, including spouses and children. The Board supports providing this flexibility for families through this amendment.

6. *Appendix C: Participant Services C-1/C-3: Service Specification: Respite*

Individuals who receive personal assistance from a legally responsible individual (spouse or parent of the minor waiver individual) shall not be authorized for the respite service, since the legally responsible individual, as primary caregiver, is paid.

Comment: The Board recommends reconsidering the allowance of respite services when a legally responsible person is the paid provider. It is possible for an individual to have a legally responsible person serving as a provider of consumer-directed services while also having a primary caregiver in need of respite services.

CCC Plus Waiver

7. *Appendix B: Participant Access and Eligibility B-6: Evaluation/Reevaluation of Level of Care*

*In the case an individual in the community expresses an interest for nursing facility care and has an immediate need for LTSS services where the community-based screening team cannot conduct the LTSS screening timely, **an individual may be screened by a nursing facility prior to admission to the nursing facility. Should the individual meet the level of care, the qualified screener at the nursing facility must offer choice of LTSS model, including CCC Plus waiver.** In the case an individual in the community expresses an interest for PACE enrollment and has an immediate need for LTSS services where the community-based screening team cannot conduct the LTSS screening timely, **an individual may be screened by a PACE site prior to enrollment in the program. Should the individual meet the level of care, the qualified screener at the PACE site must offer choice of LTSS model, including CCC Plus waiver.***

Comment: The Board appreciates efforts to increase capacity for timely LTSS screening. It is essential to maintain a conflict-free screening process that guarantees individuals have a choice of services and providers. Equally important is the documentation that these choices were offered. Additionally, providing comprehensive training for NF and PACE screeners on home and community-based services is crucial to ensure informed and unbiased decision-making.

Technical Correction

8. *Appendix A: Waiver Administration and Operation; b. Medicaid Agency Oversight of Operating Agency Performance. Narrative –*

CL Application

*18) DMAS will be responsible for provider rate-setting in consultation with DBHDS for rates under the ID and DS waivers. **DMAS will provide notice to providers about ID and DS waivers rate changes. Final determination of all ID and DS waivers rates paid remains with DMAS.***

FIS Application

*18) DMAS will be responsible for provider rate-setting in consultation with DBHDS for rates under the DD waivers. **DMAS will provide notice to providers about DD waivers rate changes. Final determination of all DD waivers rates paid remains with DMAS.***

Comment: The CL waiver application should be updated to be consistent with the FIS application, per the above content. This is likely a holdover from prior to waiver redesign.

CC. Dennis Findley