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Governor

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STEPHANIE MCGEE AZAR
Commissioner

PUBLIC NOTICE

SUBJECT: NOTICE OF INTENT TO SUBMIT SECTION 1115 DEMONSTRATION PROPOSAL TO OPERATE CONCURRENT WITH NEW 1915(c) WAIVER AND 1915(i) STATE PLAN AMENDMENT

Pursuant to 42 C.F.R. § 431.408, the Alabama Medicaid Agency (Alabama Medicaid) notifies the public that it intends to submit a Section 1115 Demonstration proposal and an application for a new 1915(c) waiver (collectively "Demonstration"), which will operate concurrently, to the Centers for Medicare and Medicaid Services (CMS). Medicaid is seeking this Demonstration to create a new program called the "Community Waiver" program and will enable the State to provide home and community-based services (HCBS) to individuals with intellectual disabilities (ID) not currently enrolled in a waiver program. A copy of the Demonstration proposal will be available upon request for public review at each county office of the Department of Human Resources, the State Office of the Alabama Department of Mental Health, and the State Office of the Alabama Medicaid Agency. A copy of the draft Demonstration proposal, locations (with addresses) to view documents, and additional information can be found on Alabama Medicaid's website at the following link:

[https://medicaid.alabama.gov/content/6.0 LTC Waivers/6.1 HCBS Waivers/6.1.9 Community Waiver Program.aspx](https://medicaid.alabama.gov/content/6.0_LTC_Waivers/6.1_HCBS_Waivers/6.1.9_Community_Waiver_Program.aspx).

Written comments concerning the 1115 Demonstration proposal will be accepted starting March 6, 2020 and are due **June 24, 2020**. Send comments to the following e-mail address: PublicComment@medicaid.alabama.gov or by mail to: Administrative Secretary, Alabama Medicaid Agency, 501 Dexter Avenue, P.O. Box 5624, Montgomery, Alabama 36103-5624.

Medicaid had scheduled two opportunities for public comment; however, those scheduled meetings were canceled due to the COVID-19 national health emergency. Medicaid is now rescheduling these opportunities for public comment. In order to adhere to the Governor's orders regarding social distancing and based on guidance from CMS, these meetings will be conducted via teleconference. Information regarding these teleconferences can be found in the "Comments and Public Input Process" section below.

DEMONSTRATION DESCRIPTION, GOALS, AND OBJECTIVES

Alabama Medicaid, working closely with the Alabama Department of Mental Health (ADMH) and its Division of Developmental Disabilities (DDD) proposes to create a new home and community-based services (HCBS) program serving individuals with intellectual disabilities (ID) in a way that is specifically geared toward maximizing the capabilities of Alabamians with ID, supporting their full participation in their communities including opportunities for integrated employment, and ensuring supports for preserving their natural and existing living arrangements to the fullest extent possible. This new HCBS program will be created through the concurrent operation of this section 1115 demonstration application, a new waiver application under Section 1915(c) of the Social Security Act, and a new State Plan Amendment application under Section 1915(i) of the Social Security Act.

The new program will be called the “Community Waiver” program and will initially enable the state to provide HCBS to 500 individuals. This aligns with a core objective of the Medicaid program to provide healthcare access and coverage to low-income Alabamians. Further, the Community Waiver program is specifically designed to enable the State to maximize the financial resources available in order to reduce the waiting list over time, more rapidly than would be possible without this new program.

The creation of the Community Waiver program will enable the State to serve individuals with ID in HCBS rather than in institutions, and best ensure the State is operating Medicaid-funded long-term services and supports (LTSS) for people with ID in full compliance with the Medicaid HCBS Settings Rule promulgated by CMS in March 2014. Additionally, the Community Waiver program will fully comport with standards applicable to person-centered planning under Section 1915(c) of the Social Security Act including conflict-free case management.

The Section 1115 Demonstration proposal, and the applications for the new 1915(c) waiver and the 1915(i) state plan amendment are, together, the culmination of eighteen (18) months of intense planning, including three rounds of stakeholder engagement where individuals with ID, their families, groups who advocate on their behalf and providers of HCBS for individuals with ID participated.

The State recognizes the opportunity to undertake systems change to address the above issues, prioritizing an approach to the delivery of HCBS that aligns with the priorities communicated by stakeholders:

- Reduce and eventually eliminate the waiting list, thereby expanding and improving access to Medicaid;
- Focus on keeping families together and supporting independent living;
- Adopt a strategy for delivering HCBS that aims to prevent crisis and prevent escalation of needs for individuals who do not currently require an institutional level of care;
- Support the capacities that individuals with ID have to contribute to their community through participation in integrated community employment, while also better ensuring their financial stability in continuing to live in the community;
- Bring services to people with ID and their families, rather than providing services in a way that requires people with ID come to those services;
- Provide increased opportunities for self-direction;
- Expand the provision of HCBS in a careful and thoughtful way that is designed to ensure provider success and quality service delivery;
- Maintain provider capacity to meet need and manage capacity to ensure providers can be successful over time.

Achieving these critically important goals and objectives requires a multi-faceted approach to designing the new Community Waiver program, including the use of three federal Medicaid authorities for providing HCBS.

Target Population and Eligibility Criteria

Currently, to be eligible to receive Medicaid HCBS in Alabama, an individual must be determined to have an intellectual disability and otherwise require an institutional level of care if not for the fact that HCBS is an available alternative. The specific eligibility criteria are:

- (a) Have a documented intellectual disability evidenced by an IQ score under seventy (70) that manifests before eighteen (18) years of age;
- (b) Have substantial functional limitations in three (3) or more of the following adaptive skill areas: communication, self-care, home living, social skills, community use, self-direction, health and safety, functional academics, leisure, and work as measured by an Inventory for Client and Agency Planning (ICAP) assessment score of 85 or lower; and
- (c) Meet the same financial eligibility requirements applying to income and assets as are currently in place for the existing ID and Living at Home (LAH) waivers.

| Intellectual Disability | Substantial Functional Limitations | Asset Limit | Income Limit |
|--|--|-------------|-------------------------------------|
| Under 70; Documented before age 18 | 3 or more areas out of 10 total areas evaluated | \$2,000 | 300% of Federal Poverty Level |

Currently, there is a waiting list for HCBS services for those individuals with ID for whom these eligibility criteria have been verified at the time of placement on the waiting list. In creating the new Community Waiver program, the state intends to expand access to HCBS for individuals who have an ID and are at risk of progressing to an institutional level of care, in terms of their number of substantial functional limitations, absent targeted HCBS.

To preserve the independence and stability within the community of individuals with ID who do not yet require an institutional level of care, the State proposes the concurrent operation of the 1115 demonstration proposed herein with the program of HCBS described in the State's new 1915(i) State Plan Amendment application. If approved, the 1915(i) will operate concurrently with this 1115 demonstration, and will serve individuals who:

- (a) Have a documented intellectual disability evidenced by an IQ score under seventy (70) that manifests before eighteen (18) years of age;
- (b) Have substantial functional limitations in one (1) or two (2) of the following adaptive skill areas: communication, self-care, home living, social skills, community use, self-direction, health and safety, functional academics, leisure, and work as measured by an ICAP assessment that results in at least one domain score of 480 or lower;
- (c) Are age twenty-two (22) or older, and thus no longer able to access public school services, including Special Education services, and Pre-Employment Transition Services available through the Alabama Division of Rehabilitation Services; and
- (d) Meet the existing Medicaid financial eligibility requirements applying to income and assets, or qualify through a new "working disabled" financial eligibility pathway established for this 1915(i) HCBS program that allows an individual working in competitive integrated employment to have income between 150% and 250% of Federal Poverty Level (FPL) to be disregarded.

| | | | |
|---------------------------------------|--|-------------|---|
| Intellectual Disability | Substantial Functional Limitations | Asset Limit | Income Limit |
| Under 70; Documented before age 18 | 1 or two areas out of 10 total areas evaluated | \$2,000 | 150% of FPL [See (d) above regarding earned income disregard] |

To ensure a thoughtful roll-out of the program, with adequate support of individuals, families and providers, necessary to ensure success, both the new proposed 1915(c) waiver and 1915(i) State Plan Amendment will initially operate in pilot areas, with at least one pilot program in each of the five ADMH regions (ADMH region map can be located at [https://medicaid.alabama.gov/content/6.0 LTC Waivers/6.1 HCBS Waivers/6.1.9 Community Waiver Program.aspx](https://medicaid.alabama.gov/content/6.0%20LTC%20Waivers/6.1%20HCBS%20Waivers/6.1.9%20Community%20Waiver%20Program.aspx)) Pilot areas must have willing and qualified providers.

PILOT AREAS

The specific counties identified for each pilot area within the regions were finalized following the completion of an ADMH Request for Proposals (RFP) process designed to identify where willing and qualified providers exist for the Community Waiver Program. Approximately 57.5% of those currently on the Waiting List reside within the pilot areas, which optimizes access to the Community Waiver Program, given the need for, and benefits of, utilizing pilot areas for roll-out.

| | | |
|-----------------------------|------------------------------------|-----------------------------------|
| Region 1 Counties | % of Statewide Waiting List | % of Region 1 Waiting List |
| Madison, Morgan, Limestone | 10% | 44% |
| Region 2 Counties | % of Statewide Waiting List | % of Region 2 Waiting List |
| Tuscaloosa, Walker | 5.5% | 64% |
| Region 3 Counties | % of Statewide Waiting List | % of Region 3 Waiting List |
| Mobile, Baldwin | 11.5% | 80% |
| Region 4 Counties | % of Statewide Waiting List | % of Region 4 Waiting List |
| Montgomery, Elmore, Houston | 8.5% | 53% |
| Region 5 Counties | % of Statewide Waiting List | % of Region 5 Waiting List |
| Jefferson | 21.5% | 58% |

COST SHARING

Alabama Medicaid is not proposing any changes to the current Medicaid State Plan cost sharing requirements through this Demonstration.

ANNUAL ENROLLMENT AND ANNUAL EXPENDITURES

With approval of this 1115 demonstration application and the concurrent 1915(c) and 1915(i) applications, the state proposes to limit enrollment in the 1915(c) waiver and 1915(i) HCBS program to align with available resources, initially establishing a total of 500 slots across both programs. These slots will initially be allocated as follows:

| Year 1 | 1915(c) Group 1 | 1915(c) Group 2 | 1915(c) Group 3 | 1915(c) Group 4 | 1915(i) | Total |
|--------|--------------------|--------------------|--------------------|--------------------|---------|-------|
| Total | 30 | 70 | 300 | 74 | 26 | 500 |

Waiver Proposal Estimated Enrollment and Expenditures

| Demonstration Year¹ (DY) | | | | | |
|--|--|--|--|--|--|
| | DY1² January 1, 2021 to September 30, 2021 | DY2 October 1, 2021 to September 30, 2022 | DY3 October 1, 2022 to September 30, 2023 | DY4 October 1, 2023 to September 30, 2024 | DY5 October 1, 2024 to September 30, 2025 |
| Total Member Months | 4,500 | 8,694 | 11,638 | 16,894 | 19,665 |
| Unduplicated Participants ³ | 500 | 756 | 1,012 | 1,469 | 1,710 |
| Aggregate Expenditures (Total Computable) | \$16,158,379 | \$32,421,501 | \$43,720,666 | \$64,519,477 | \$76,185,416 |

1 – Expenditures include state plan services (acute and mental health / substance abuse) and home and community-based services.

2 – DY1 reflects 9 months while DY2 – DY5 reflects 12 months.

3 – Includes 1915(c) and 1915(i) populations.

HYPOTHESES AND EVALUATION PARAMETERS

| Program Goal | Hypothesis | Anticipated Measure | Data Source(s) | Evaluation Approach |
|--|---|---|--|---|
| Effectively address the need to expand coverage and reduce, and eventually eliminate, the waiting list. | The Community Waiver program design will result in increased pace at which eligible individuals will be removed from the waiting list. | The average annual number of eligible individuals with ID enrolled from the waiting list during the ten-year period before the Community Waiver program compared to the average number annually thereafter, less those enrolled in either period as a result of new appropriations. | Enrollment data; program funding source data. | Compare historical annual enrollment from waiting list to annual enrollment from waiting list beginning on date of Community Waiver program opening. |
| Increase percentage of HCBS recipients able to sustain family and natural support living arrangements. | The Community Waiver program design will result in higher percentage of individuals served living with family or natural supports than in residential placements. | The percentage of enrollees in the Community Waiver program living with family or natural supports and living in residential placements compared to the same measures for the legacy waiver program. | Person-Centered Plans; service utilization and claims data. | Compare percentage of enrollees living with natural supports or living residential placements for Community Waiver program and Legacy Waiver program. |
| Increase percentage of HCBS recipients able to achieve/sustain independent living or supported living in settings that are not provider owned or controlled. | The Community Waiver program design will result in higher percentage of individuals living in independent or supported living settings not owned or controlled by providers than in the ID and LAH waivers. | The percentage of enrollees in the Community Waiver program receiving a type of residential supports and living in settings that are not provider owned or controlled as compared to the same percentage for the legacy waiver program. | Person-Centered Plans; service utilization and claims data; Individual Experience Assessments. | Compare percentage of enrollees in the Community Waiver program receiving a type of residential supports and living in settings that are not provider owned or controlled as compared to the same percentage for the legacy waiver program. |

| Program Goal | Hypothesis | Anticipated Measure | Data Source(s) | Evaluation Approach |
|--|---|---|---|---|
| Reduce incidence of crisis among individuals with ID known to ADMH/DDD. | Where the Community Waiver program operates, the annual number of crises among individuals with ID known to ADMH/DDD will be lower than in areas where the Community Waiver program does not operate. | Number of individuals enrolled in the Community Waiver program, or on waiting list and living in area where, the Community Waiver program operates, who experience a documented crisis in each waiver year as compared to same for legacy waiver program. | Criticality Assessments; Reserve Capacity Enrollments; Support Coordination and Case Manger Documentation | Compare annual number as percentage of total known to ADMH/DDD for Community Waiver and for legacy waiver program. |
| Prevent escalation of needs for individuals who do not currently require an institutional level of care. | At least 75% of Individuals who do not meet institutional level of care who are enrolled in the Community Waiver program will not progress to meeting institutional level of care. | Number of 1915(i) State Plan HCBS program enrollees who transition to the 1915(c) Community Waiver in each year, as a percentage of the total number enrolled in the 1915(i) State Plan HCBS program. | Disenrollment Data; Enrollment Data; Transitions Data. | Measure percentage of 1915(i) State Plan HCBS program enrollees who do not transition to the 1915(c) Community Waiver in each program year. Threshold for meeting goal is at least 75%, after excluding disenrollments for other reasons. |
| Increase the percentage of HCBS recipients who contribute to their community through participation in integrated competitive employment. | The Community Waiver program design will result in a higher percentage of working-age individuals (22-64) enrolled working in integrated competitive employment. | Number of enrollees in Community Waiver program and legacy waiver program, aged 22 to 64, who worked in integrated, competitive employment during at least one month of the waiver year. | Employment Outcome Data; Person-Centered Plans. | Compare number of enrollees in Community Waiver program and legacy waiver program, aged 22 to 64, who worked in integrated, competitive employment during at least one month of the waiver year. |
| Increase use of self-direction | The Community Waiver program design will result in higher utilization of self-direction by participants than in the ID and LAH waivers. | Percentage of enrollees in Community Waiver program and legacy waiver program who: (1) have services in their Plan of Care that can be self-directed; and (2) are utilizing self-direction for one or more services. | Plans of Care; FMS Enrollment Data | Compare percentage of enrollees in Community Waiver program and legacy waiver program who: (1) have services in their Plan of Care that can be self-directed; and (2) are utilizing self-direction for one or more services. |

| Program Goal | Hypothesis | Anticipated Measure | Data Source(s) | Evaluation Approach |
|--|---|--|--|---|
| Use of self-direction will result in higher wages and lower turnover among direct support providers. | The Community Waiver program design will result in self-direction workers with higher average wages and lower average turnover rates than direct support workers employed by provider agencies. | Average hourly wage and turnover rate for self-direction workers in the Community Waiver program in each program year with the average hourly wage and turnover rate for agency-employed direct support professionals providing the same service type during the same time period. | NCI Staff Stability Survey (with supplement); FMS Data | Comparison of average hourly wage and turnover rate for self-direction workers in the Community Waiver program with the average hourly wage and turnover rate for agency-employed direct support professionals providing the same service type. |
| Increase provider agency stability through incremental statewide roll out of program. | The Community Waiver program design will result in participating provider agencies reporting greater stability than prior to program implementation. | Self-reported rating by provider agency leadership on a standardized set of indicators of organizational stability. | Provider Survey | Pre-survey to establish baseline for providers participating in the Community Waiver program and annually re-administer survey to measure change over time in provider self-reported organizational stability. |
| Increase quality service delivery by limiting provider network. | The Community Waiver program design will result in higher performance by providers on service delivery quality measures as compared to providers operating only in the legacy waiver program. | Provider certification quality measures for like services that are provided in both the Community Waiver program and the legacy waiver program. | Certification Surveys | Comparison of providers only operating in legacy waiver program to providers who are operating in the Community Waiver program exclusively or in both programs. Comparison of provider certification quality measures for like services that are provided in both the Community Waiver program and the legacy waiver program. |

WAIVER AUTHORITY SOUGHT

The following section describes the waiver authorities this application seeks as essential elements for implementation of the overall program design for the Demonstration proposal.

Waivers Requested

For operation of 1915(c) HCBS Waiver Program

Statewideness. **Section 1902(a)(1)**
To enable the state to restrict the geographic area where the program will provide HCBS services to eligible persons with intellectual disabilities.

Comparability of Services. **Section 1902(a)(10)(B)**
To enable the state to offer a different package of services and/or same services with different amount, duration and/or scope than is available to persons with ID through the existing ID and LAH 1915(c) waivers.

To enable the state to establish an expenditure cap applying to service plans for individuals with intellectual disabilities enrolled in the program.

Freedom of Choice. **Section 1902(a)(23)**
To enable the state to restrict freedom of choice of provider for Support Coordination services to staff employed by the State Department of Mental Health, Division of Developmental Disabilities.

To enable the state to restrict freedom of choice of provider for other available services to provide a sufficient but not unlimited supply of contracted providers to meet beneficiaries' needs and provide beneficiaries with choice.

For operation of 1915(i) State Plan HCBS Program

Statewideness. **Section 1902(a)(1)**
To enable the state to restrict the geographic area where the program will provide HCBS services to eligible persons with intellectual disabilities.

Comparability of Services. **Section 1902(a)(10)(B)**
To enable the state to offer a different package of services and/or same services with different amount, duration and/or scope than is available to persons with intellectual disabilities through the existing ID and LAH 1915(c) waivers.

To enable the state to establish an expenditure cap applying to service plans for individuals with intellectual disabilities enrolled in the program.

Reasonable Promptness.

Section 1902(a)(8)

To enable the state to limit enrollment based on available appropriations.

Any Willing and Qualified Provider.

Section 1902(a)(23)

To enable the state to utilize selective contracting for Support Coordination services to staff employed by the State Department of Mental Health, Division of Developmental Disabilities.

To enable the state to utilize selective contracting and limiting the number of providers for other available services in order to ensure an appropriate supply of contracted providers to meet beneficiaries' needs.

COMMENTS AND PUBLIC INPUT PROCESS

As required by federal regulation, Alabama Medicaid opened a comment period on March 6, 2020, and interested parties are directed to [https://medicaid.alabama.gov/content/6.0 LTC Waivers/6.1 HCBS Waivers/6.1.9 Community Waiver Program.aspx](https://medicaid.alabama.gov/content/6.0_LTC_Waivers/6.1_HCBS_Waivers/6.1.9_Community_Waiver_Program.aspx). A copy of the draft Demonstration proposal will also be available upon request for public review at each county office of the Department of Human Resources, the State Office of the Alabama Department of Mental Health, and the State Office of the Alabama Medicaid Agency.

Written comments concerning the Demonstration proposal will be accepted starting March 6, 2020 and are due **June 24, 2020**. Send comments to the following e-mail address: PublicComment@medicaid.alabama.gov or mailed hardcopy to: Administrative Secretary, Alabama Medicaid Agency, 501 Dexter Avenue, P.O. Box 5624, Montgomery, Alabama 36103-5624. All written comments will be available for review by the public during normal business hours at the above address.

In order to adhere to the Governor's orders regarding social distancing and based on guidance from CMS, public meetings to provide feedback regarding the Demonstration proposal will be conducted via teleconference. The rescheduled opportunities for public comment will be held:

June 9, 2020 1:00 p.m.

Join online:

<https://al.gov.webex.com/algov/j.php?MTID=m23fb93ca22504fb963792cb763085aea>

Meeting number (access code): 286 627 576

Meeting password: Medicaid1

Join by phone:

+1-415-655-0001 US Toll

Meeting number (access code): 286 627 576#

Attendee number: enter #

June 10, 2020 10:00 a.m.

Join online:

<https://al.gov.webex.com/algov/j.php?MTID=m4ed802e0a4c05e3e72dde0ace8fec915>

Meeting number (access code): 284 463 191

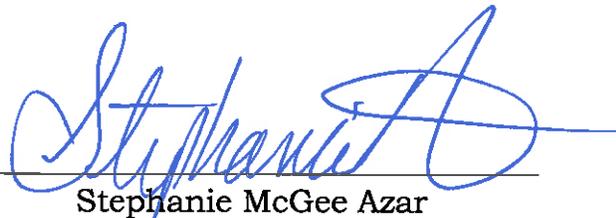
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