

**1915(c) Home and Community Based Services (HCBS) Waiver
For Individuals with Intellectual and Developmental Disabilities (I/DD)
“I/DD Waiver”
SUMMARY OF PUBLIC COMMENTS
February 2016**

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Comments were quoted in original form with the exception of removing references to gender, relationship, name or agency to keep all comments confidential. A generic replacement term is used in brackets []. For example, [loved one] replaced a word like cousin or daughter. Brackets [] were also used to identify the waiver service that the commenter was referencing to assist the reader to understand the comment in context.

More than 150 comments were received and summarized in this document.

I. SERVICE-SPECIFIC ISSUES

A. PROPOSED NEW SERVICES

A number of comments were received about six proposed new services: Community Learning Services (CLS), Consumer Directed Personal Assistance/Habilitation (CD-PAB), Community Guide, Family Training and Support, Intensive Team-Based Supports, and Mentorship. Many asked for more details about the service, how to coordinate and authorize the separation between the current PAB service and the new CLS service, the provider qualifications, whether agencies or independent contractors would be used, and training for the staff. There were several very positive comments in support of these new services.

STATE RESPONSE:

Following a discussion with the Centers for Medicare and Medicaid Services (CMS), four services (Community Guide, Family Training and Support, Intensive Team-Based Supports, and Mentorship) have been withdrawn from the waiver application because they would not be implemented at the time of the approved waiver. These services are on track to be implemented in Year Two of the waiver (fiscal year 2018).

Two additional new services (CLS and CD-PAB) were removed from the waiver application because the rate study was incomplete and the initial projections indicated that rates may be different. The services will be addressed with the amendment submitted following the completion of the rate study.

All of the comments and suggestions received for these six services will be used to guide further development of the service descriptions and operational guidelines. A formal public notice and comment period will be held prior to submitting a waiver amendment with the proposed new services. The summary of public comments for the amendment will include the comments received to-date, as well as additional feedback received at that time.

IMPACT ON WAIVER:

Per CMS guidance, the six proposed new services have been removed from the waiver application. The services will be added through a waiver amendment at a future date.

B. ADULT DAY HEALTH, DISCOVERY & CAREER PLANNING, INDIVIDUAL AND GROUP EMPLOYMENT SERVICES

Numerous commenters provided questions and suggestions for the services provided during the participant's day, e.g., Adult Day Health, Discovery & Career Planning, Individual Employment Services.

1. COMMENT:

One provider expressed concern about limits on participants performing chores or tasks at a waiver program.

ADH excludes... - How will it impact participants who do chores around the program site?

a. Stocking supplies, shredding paper, sweeping floors, etc.

STATE RESPONSE:

The State appreciates the provider's feedback and follow-up by phone discussion to better understand the types of situations being described. The intent of the language was to ensure that participants were not being used to perform work that they can complete independently and for which another worker would otherwise be paid to perform that job. In addition, clarification was needed to permit routine chores that are part of participating in a program.

IMPACT ON WAIVER:

The waiver language was revised. ADH limits state that ADH excludes: "2) supporting participants who independently perform activities that benefit the provider or its staff, i.e., independently doing services that would otherwise require the provider or its staff to pay for that service, such as landscaping, yard work, painting and housecleaning. This does not include routine chores and activities that participants engage in to maintain their common areas, practice responsibility and teamwork."

2. COMMENT:

Two comments were received that expressed concerns about changes to the waiver descriptions related to participants working at the provider agencies for pay.

From providers:

I believe it would be detrimental to a large portion of the population that we serve if we were not allowed to operate in-house related employment activities at a minimum wage rate...I am concerned many individuals will lose their jobs and wages due to this waiver requirement. I would suggest that allowances be made for individuals that are not ready to enter the workforce to be allowed to continue these meaningful jobs and be evaluated annually for whether it is still appropriate or they should be transitioning into a community based job.

I wholeheartedly support the idea of increasing Competitive Employment and increasing community awareness about hiring individuals with disabilities; however, the new Waiver Contract will not allow us to do any vocational activities during ADH hours and will not allow anyone to do a job that benefits (our Agency). I feel this will have negative impact on our program and reduce choice among our participants.

STATE RESPONSE:

The State notes the feedback and will work with providers and participants to ensure that the goals of integrated competitive employment are the focus of employment-

related services. Adult Day Health, by definition, is not utilized for employment supports. Providers of ADH services will be able to apply to become providers of Individual Employment Services if they choose to expand their service array and meet the requirements for providing this service. Some ADH providers are indicating they will be looking at ways to partner with other providers and facilitate participant choice to receive Discovery & Career Planning and Individual Employment Supports from other waiver providers in order to support the participant to seek competitive integrated employment.

IMPACT ON WAIVER:

No changes made to the waiver application.

3. COMMENT:

Several questions were received about the coordination between the Division of Vocational Rehabilitation and the waiver services.

From providers:

How does the IES [Individual Employment Supports] relate to DVR's [Division of Vocational Rehabilitation] services? Does the participant go to DVR and get a denial letter or can they get services through DOH DD if that is they want?

Clarification on the process for employment services between DVR and DOH-DD employment services. Subject matter experts talk about blending and braiding services. Is there an agreement between DVR and DOH-DD? Will the new renewal waiver allow us to bundle services with DVR?

What if the participant decides to receive employment services through waiver provider rather than DVR?

Not all Waiver agencies have a contract with VR

STATE RESPONSE:

The waiver states that services will not duplicate services required under the Rehabilitation Act. The commenters are asking about how to operationalize the requirement. DOH/DDD is working with DHS/DVR to revise its Memorandum of Understanding for collaboration and cross-division work to support participants with intellectual and developmental disabilities. DOH/DDD, DHS/DVR and the University of Hawaii at Manoa are collaborating on a pilot project to blend funding to support individuals who are pursuing education after high school. By working together on this pilot, the agencies will be able to use real-world situations to identify opportunities and challenges, and problem-solve together with stakeholders. In addition, many state partners, including Vocational Rehabilitation, Labor, Developmental Disabilities, Med-QUEST and Department of Education are involved in the Employment First State Leadership Mentoring Program (EFLMP). The program is a cross-disability, cross-

systems change initiative to support individuals to provide integrated employment opportunities and eliminate barriers to employment. DHS/DVR is exploring ways to use waiver agencies so there is more continuity for participants between waiver and vocational rehabilitation.

IMPACT ON WAIVER:

No changes made to the waiver application. Additional guidance on coordinating between these two funding sources will be provided through communication issued by DOH/DDD in collaboration with DHS/DVR.

4. COMMENT:

Several commenters submitted questions and concerns about coordination of services between Adult Day Health, Discovery & Career Planning, and Individual Employment Supports for responsibility to transport the participant to and from services.

From providers:

Employment Supports: Difference between transportation between employment activities and transportation to and from work. Does this mean the provider is responsible for the cost of transportation to and from work for the participant? Can non-medical transportation be used?

Non-Medical Transportation- Can this be used to get bus passes for public transportation?

Primary and alternate transportation need to be documented. ADH is responsible for transportation services, but the focus should be on public transportation, natural supports (meaning that ADH is not providing the transportation), and free community services (not currently available). Comments about transportation seem cumbersome and not realistic. Please provide a list of transportation.

STATE RESPONSE:

The State agrees with the commenter who raised the issue of fostering independence to get to work rather than relying solely on a waiver provider for that support on an on-going basis. The waiver service definition for Individual Employment Services was changed to use the term “arrange” for transportation, rather than “provide” transportation. This enables the participant and employment supports provider to collaborate on the participant’s progress toward identifying, securing, and using other modes of transportation to and from work, while increasing independence and reducing reliance on public services. The Waiver Standards will be revised to clarify that participants may use Non-Medical Transportation to get to and from the job as specified in the participant’s ISP and in compliance with the service description and limits. Proposed language in the waiver to identify other options for transportation (primary and secondary) was intended to support more variety in transportation to participate in community integration activities; however, the language was confusing and the commenter raised a concern that transportation responsibilities could be shifted from

the ADH provider to natural supports. The State agreed with that comment and removed language related to natural supports and free community services.

IMPACT ON WAIVER:

The service description for Individual Employment Services was modified based on public input to require the provider to “arrange” rather than “provide” transportation to and from the participant’s employer.

The service description for Adult Day Health was revised to return the language to that in the current waiver, which requires that the ADHs continue to be responsible for transportation.

5. COMMENT:

Two stakeholders commented on the change to 15 minute units for reporting time spent at the Adult Day Health. In the current waiver, only ½-day and full-day reporting was permitted, which presents challenges to participants who wanted flexibility to attend ADH less than the minimum ½-day period, as well as for providers that could not bill for service time less than three hours (½ -day).

From providers:

All ADH should be 15-min. unit. Waiver can stipulate that there can be no more than 24 units in a day if still want max 6-hour day.

From family members:

I am happy to see that in the new Waiver it is being proposed that participants can attend ADH (Adult Day Health) for less than half a day and that 15 minute increments will be allowed for billing. ADH should be available to all folks who want to attend but may have other things they do as well such as work, go to school or attend other programs. I am in favor of this change.

STATE RESPONSE:

The State appreciates the comments and suggestion for reporting requirements and limits to the ADH service. The upcoming change to 15-minute units for claims was based on numerous comments received during the “Talk Story” informal public comments throughout the summer and fall of 2015. The 15-minute unit will be considered as part of the comprehensive rate study being completed in order to establish the rate for that unit of service.

An amendment must be submitted to CMS with the new rates and units. Until the amendment is approved by CMS, providers will continue to report in half-day and full-day units. The State will take the suggestion for a 24-unit limit under consideration with the amendment to CMS.

IMPACT ON WAIVER:

The 15-minute code will be addressed with the new rates following the rate study and waiver amendment.

6. COMMENT:

One provider requested that waiver funds be used to provide stipends for work experience as part of Discovery & Career Planning.

Please consider allowing payment of wages (minimum or greater)/stipends for internships or work experience for short periods of time. Earning money can be a great incentive and provide real money for financial literacy training and money management learning.

STATE RESPONSE:

The State appreciates the intent of the question; however, Medicaid funds cannot be paid to participants of services. Paying wages to participants would require a different funding source, such as donations.

IMPACT ON WAIVER:

No changes made to the waiver application.

7. COMMENT:

Several commenters asked about limits and clarifications for services or offered suggestions on establishing performance expectations.

From providers:

[Individual & Group Employment]: What is the "period of time" each day? Maximum time is?

Is there a maximum number for job development that is not face to face?

The only timeline identified was 24 months for DCP. Are there other timelines?

Suggest short term 2 to 4 weeks for specific job skills acquisition well as exposure to variety of job trials.

STATE RESPONSE:

Under the Limits section for Individual Employment Supports, the service limits are eight (8) hours per day, 40 hours per week. The State did not include specific number of units for job development for this application, but will be monitoring utilization patterns, as well as gathering information during the rate study process. The suggestion by one commenter to have short timeframes for exposure in a variety of job trials can be included in the Waiver Standards as a suggested guideline. The State will require providers to report timelines and outcomes in order to identify trends and patterns.

IMPACT ON WAIVER:

No changes made to the waiver application.

8. COMMENT:

Two providers identified unclear language in the service description of Discovery and Career Planning and Individual Employment Supports.

What is the difference between Job discovery and job development?

Does DCP do both or is development an IES?

STATE RESPONSE:

The State agrees with the commenters and appreciates the thorough review. The Discovery & Career Planning service description had inadvertently included job development language that should have been under Individual Employment Supports.

IMPACT ON WAIVER:

Job development language was moved to Individual Employment Supports. Job discovery remained in the Discovery & Career Planning service description. Definitions of the terms “job discovery” and “job development” will be included in the Waiver Standards to further clarify the different activities.

9. COMMENT:

A number of commenters requested clarification on differences between Adult Day Health and Discovery & Career Planning. In the proposed language, employment-related “soft skills,” such as professional appearance, timeliness, etc. were included in both service descriptions, leading to confusion about which service the participant should use.

The participant must receive services from two provider agencies, one for ADH and one for DCP?

Page 53 states that a participant’s ISP could include both, while page 55 states that the “participant can choose to receive skills training through ADH waiver provider or through DCP waiver provider, but not from both during the same authorization period.”

There needs to be more clarification regarding ADH and Discovery & Career Planning (DCP).

What if the participant just does not wish to work? The requirement for employment services listed in ADH (either working toward employment, retirement, or reason for exception specified in ISP) needs to reflect more personal choice.

STATE RESPONSE:

The State agrees with the commenters that the “boundaries” between the two services were overlapping and has revised language in the waiver to reflect that ADH focus is on individual independence, increased participation in the community and other skill

building that lead to increased community integration. Discovery & Career Planning focuses on general workplace skills and exploring career paths.

IMPACT ON THE WAIVER:

The service description for ADH removed “movement to integrated competitive employment” and added “and other skill building that leads to increased community integration.” The following sentence was removed from the ADH service description: “ADH does not include training in skills for a specific job but rather focuses on generic job and workplace skills. Such training is not a prerequisite for employment as many participants can benefit from learning these types of skills on-the-job.” Training in these generic job and workplace skills is in the Discovery & Career Planning service.

C. NON-MEDICAL TRANSPORTATION

10. COMMENT:

A number of comments were received that focused on transportation issues unique to the Neighbor Islands. The following comments are representative of issues identified in this area that included Non-Medical Transportation, as well as transportation included within some service definitions.

From providers:

I am expressing concern I personally have. I wanted to ensure you are aware of the transportation issues we face. Much of our Island has NO public transportation. Where we are in Honokaa and all along the Hamakua and Kohala coast there is not even a taxi service available. This is true for the majority of our Island.

We try hard to accommodate the choices of our population by providing mileage to the DSW's. Obviously with the costs to the organizations constantly on the rise, this becomes increasingly challenging. We don't have the cheaper, public transportation as an option. I know our Island is unique, partly due to our sheer size, please take into consideration these challenges when you delegate funding for these new programs as well as the ones we already have.

[Non-Medical Transportation] - Could the \$1000 cover para-transit rides, if offered in rural areas? On Kaua'i para-transit rides cost \$2 for the participant and no charge for the aide. The most important modification would be the annual limit of \$1000 when utilizing this service. In a rural area the cost of taxi use regularly would not be cost efficient and exceed the annual limit readily.

We agree that services in the community should be in a manner that will help our clients develop new skills, such as navigating their local community via public transportation. On Oahu, there are multiple options available. However, the Neighbor Islands it is very limited. If clients require transportation in a personal vehicle, then there should be an increase in the reimbursement rate for CLS.

Transportation continues to be an important issue and perhaps an analysis on cost should be done by county.

From family members:

Non-Medical Transportation More Coordinating & Innovative initiatives need to be with Local Gov't Agencies to insure PROMPT & Appropriate deliveries of Services to & for Clients...

STATE RESPONSE:

As noted in the response to Comment #2, the comprehensive rate study will be looking at differences in geographic regions (county) and additional requirements such as administrative costs of training or supporting a mentor. Stakeholders will have several opportunities to provide feedback on the findings and rate model(s) through an informal public comment period and formal public notice and comment.

The State determined that the proposed limit should be removed in the waiver service definition for Non-Medical Transportation and will be reviewed during the rate study. If a limit is added to the service description, it will be included in a waiver amendment.

DHS/MQD and DOH/DDD will continue to foster partnerships and collaborate with other agencies and the community members to identify creative strategies to address transportation challenges, particularly on the Neighbor Islands.

IMPACT ON WAIVER:

The proposed annual limit of \$1000.00 was removed. Once the rate study is completed, the State will make a policy decision whether a limit and if so, what amount, should be implemented. An amendment to the waiver will be submitted to the Centers for Medicare and Medicaid Services (CMS) once the rate study has been completed and decisions are made based on the findings and recommendations, as well as the public comments received.

D. RESIDENTIAL HABILITATION

11. COMMENT:

I have questions about the ResHab service and if this is intended to replace PAB services in Dom (Domiciliary) settings at (a) cheaper and less regulated way. I would suggest using this service primarily for Foster home settings and allowing for the current system to continue in Doms as it has been a successful model there, and I think ResHab could address the needed support that Foster Homes have been lacking.

STATE RESPONSE:

The rate study will look at the costs of agency-operated and family-operated residential habilitation providers and establish different rates for each. DD Domiciliary homes will be considered agency-operated ResHab providers rather than PAB providers.

IMPACT ON WAIVER:

No changes made to the waiver application.

12. COMMENT:

Res Hab should also be combined with PAB by a licensed Provider due to the burn out factor of the caregiver especially those who also have other jobs. This should be subject to the level of care that the participant needs.

STATE RESPONSE:

The proposed waiver application being submitted to CMS includes the following allowance for a brief period of additional PAB services in a ResHab setting due to a complex medical or behavioral issue. "There may be rare occasions when a participant living in a residential habilitation setting requires more staffing than the home's caregiver would provide as part of the cost of this service. These are typically due to complex behavioral or physical care needs are short term. When deemed necessary, DOH/DDD can authorize PAB staff to enhance the supports rendered by the residential habilitation caregiver for a period of time each day. When PAB is provided in the ResHab setting, this is a distinct and separate service that can be billed in 15-minute increments during the hours of ResHab." This language is subject to CMS approval of two services that are necessary to address the participant's support needs occurring simultaneously in the setting.

IMPACT ON WAIVER:

No changes made to the waiver application.

E. RESPITE

13. COMMENT:

Several commenters requested that certified family foster home caregivers be provided Respite. The following are representative of feedback received on this topic.

Please make provisions for Respite services to be ALLOWED to be delivered to residents in foster home settings if there is extraordinary need and the service is deemed appropriate by the CM.

Respite: Current Foster Home Caregivers have a "system of support", whereby they somehow are able to provide "some" Respite for each other...this "system" DOES NEED to be augmented...

It has to be defined who will provide respite to certified foster home caregivers. Is it a workforce outside of substitute pay that will be subsidized separately by Department of Health through the waiver program?

STATE RESPONSE:

The State appreciates the feedback; however, Certified Adult Foster Home caregivers are required by Hawaii Administrative Rules to secure a substitute caregiver for times when the caregiver will be away from the home when participants are present, which would include using substitute caregivers for brief respite periods. The waiver service may not duplicate this requirement. The State will continue to explore this issue with stakeholders.

IMPACT ON WAIVER:

No changes made to the waiver application.

14. COMMENT:

Respite Focus is DESPERATELY NEEDED on the FAMILY CareGivers who provide the same or MORE level of care as the Certified Adult Foster Home CareGivers...most get No Respite at all...! Insurance statistics show that CareGiver Life Expectancy is drastically reduced, in which case, the TOTAL burden will fall onto the Governmental agencies...at a much higher cost...!

STATE RESPONSE:

The State agrees that Respite is a critical service that strengthens families and assists them to keep their loved one at home. We are following up with the commenter individually through our Medicaid ombudsman and case manager.

IMPACT ON WAIVER:

No changes made to the waiver application.

F. SKILLED NURSING

15. COMMENT:

Two providers offered feedback on the issue of nurse-delegation for medication administration and other services.

Please provide definition of "delegated nursing tasks".

We are very grateful that medication administration has been expanded upon in this Waiver to ensure that safety of our clients. Our concern is that as stated on page 95 that medication administration will become a delegated duty with the phasing out of the skilled nursing on a client's service.

(Recommendation): Please clarify that this will not become a delegated duty for PAB workers or if it is that there are limitation to what medications can be delegated, such as PRN's, narcotics, injectable, etc.

Our concern with Skilled Nursing being transitioned to PAB's is having unlicensed people providing skilled services that could be potentially life threatening to clients. For a Registered Nurse (RN) to delegate skilled tasks under their license is a huge liability for them as well as their agency. We understand that Hawaii regulations state that a RN can delegate what they feel

this is delegable but this can be at the risk of the client's health.

(Recommendation): Skilled Nursing should be completed only by a skilled nurse or be referred to the Quest Integration Health Plan.

It is necessary for our in home care providers or PAB service providers to be able to help administer medications to clients with proper data and control. The skilled nursing is hardly available to the agencies in the amount of available staff.

STATE RESPONSE:

The State appreciates the feedback that further clarification is necessary regarding whether the tasks can be delegated by a nurse to a PAB worker. The State will establish a workgroup to develop general guidelines in the Waiver Standards; however, we recognize that each situation is unique and must be determined by that licensed practitioner in the context of the individual's needs and circumstances. The intent of language related to nurse delegation is to ensure that Skilled Nursing is provided when the level of skilled intervention requires the direct judgment, education and skills of a licensed nurse while utilizing limited workforce resources in a manner that is most efficient, effective and meets the health and safety needs of waiver participants.

IMPACT ON WAIVER:

No changes made to the waiver application.

G. TRAINING & CONSULTATION

16. **COMMENT:**

Several stakeholders commented on the revised definition, with some supporting a focus solely on behavioral supports, while others wanted the qualified providers who could offer T&C to include other disciplines beyond those focused on behavioral supports.

From providers:

We are pleased to see that the Department of Health – Developmental Disabilities Division (DOH –DDD) has added modifications to the Training and Consultation Service and has recognized the need to focus this service on behavioral consultation and supports.

Additionally, we would like to acknowledge the DOH – DDD for including services that are evidence-based and best practice to support individuals who are exhibiting challenging behaviors.

From family members:

Where is PT? My [loved one] has a wheelchair and needs a therapist.

STATE RESPONSE:

Based on the comments, the State determined that changing this service to focus solely on behavioral supports could potentially eliminate needed services that are provided by

other disciplines such as physical, occupational and speech therapy. The current waiver permits T&C by a number of different professionals and leaving that intact with the renewal allows access to the various professionals, including those with expertise in behavioral analysis. This change does not impact the best practices noted by the commenter to provide ongoing monitoring of the implementation of the goals and outcomes.

IMPACT ON WAIVER:

Language was modified in the waiver application to add the following sentence: "Consultation activities are provided by professionals in psychology, nutrition occupational therapy, physical therapy, speech and language pathology, psychiatry, and behavior analysis." The following sentence was deleted: "Training and consultation services are focused on providing consultative supports for participants who experience challenging behaviors, their families, caregivers, staff and others who interact with the participant frequently."

17. COMMENT

One provider requested clarification on what the service will cover and how it is prior authorized. One family member also raised concerns about the length of time needed to get authorization.

From a provider:

Each step—such as evaluation phases, assessment phases, or planning/training (and so on) phases. Will these services be able to pay for evaluation phases? Evaluation phases is prior authorized by DOH/DDD CIT. Assessment phases- after DOH/DDD approve. It means they pay services for Assessment? Or after DOH/DDD CIT approves they will pay back later including evaluation?

From a family member:

I do have concerns about "WHO" will be doing the in home assessment under Training and Consultation and what their required credentials and expertise would be. I have found in the past that getting immediate access to something like a Functional Behavioral Assessment when my [loved one] was in crisis was cumbersome and time consuming process. I don't want to see this getting bogged down any more, but rather streamlined to be more effective and time sensitive.

STATE RESPONSE:

The service description includes "evaluation and assessment; the development of recommendations for the goals and outcomes; training and technical assistance to implement the goals and outcomes; and monitoring of the participant, caregivers and providers in the implementation of the goals." The assessment and evaluation would be covered and the provider may submit claims for reimbursement of services rendered.

The Waiver Standards will include additional guidance on the process for obtaining prior authorization for T&C services. DOH/DDD will update the Policy & Procedure related to prior authorization of this service to streamline the process to get services in place in a timely manner.

IMPACT ON WAIVER:

No changes made to the waiver application.

18. COMMENT:

One provider asked about the impact of the licensing law effective 1/1/16 on T&C.

We would like the DOH –DDD to take the time to be mindful of the State of Hawaii’s licensure law for Behavior Analysis (SB 40), also known as “Luke’s Law.” Specifically, we are hoping that you consider the definition of “Applied Behavior Analysis” as well as the “practice of behavior analysis” as outlined in the law when defining the services being provided within Training and Consultation as well as the Provider Qualifications.

(Recommendation): The DOH-DDD consider adding Registered Behavior Technicians (RBT’s) to the Provider section as a provider to be procured when utilizing Training and Consultation Services...The RBT credential indicates a higher standard of service by those who are more skilled than those without the credential

STATE RESPONSE:

The State has been working with providers, the Hawaii Association for Behavior Analysis, and other partners to identify the impacts of Act 199, Session Laws of Hawaii (2015), codified as Hawaii Revised Statutes (HRS) chapter 465D. This statute requires that behavior analysis be provided by Licensed Behavior Analysts with exceptions for other professionals working within their scope of practice to perform behavior analysis, such as licensed psychologists. A workforce development task force will be formed to address the impacts of this law on T&C and the delivery of waiver services. Providers are kept informed of the legislative developments via emails and the All-Provider Meetings. The Waiver Standards will reflect the provider qualifications in compliance with Hawaii Statute.

IMPACT ON WAIVER:

No changes made to the waiver application.

II. RATES

19. COMMENT:

Many commenters had concerns about the rates currently paid to providers for services. The following statements are representative of input received.

From providers:

This year we are receiving lots of calls from our caregivers about their pay increase & we also incurred lots of increases in employee health insurance, and all other areas of our business. Is there any possibility that providers will be receiving a new rate of increase?

When will we receive information regarding revised or new reimbursement rates for all the services?

From family members:

Does your current Budget allow for Additional Positions & Services or are you proposing to ask for budgetary increases to comply with the Federal mandates?

Notice that the various Providers are having difficulty staffing current positions, competing with other industry companies with higher pay ratings...hopefully, the Department is not looking to implement the new additional Services & Positions within the current Budget...

The need for licensed homes will be met if our incentives are commensurate to the emotional and physical stress of the caregivers.

STATE RESPONSE:

The State has contracted with a national firm to complete a comprehensive rate study. The study will be completed later this summer. A Provider Advisory Group has been advising the rate study contractor. Stakeholders will have several opportunities to provide feedback on the findings and rate model(s) through an informal public comment period and formal public notice and comment. Please note any increase in rates for Waiver services needs to come from the state match allocation in the DDD budget. If the total cost of providing waiver services exceeds DDD's budget allocation, a request for an increase in the state match would need to be made through the legislative process.

IMPACT ON WAIVER:

An amendment to the waiver will be submitted to the Centers for Medicare and Medicaid Services (CMS) once the rate study has been completed and decisions are made based on the findings and recommendations, as well as the public comments received.

20. COMMENT:

In addition to general issues related to rates, some comments were received that focused on specific provider types/services and the need to reimburse at rates that ensure access to the service.

From providers:

Please consider procuring these services [Training & Consultation] at a rate comparable with current reimbursement rates for Licensed Behavior Analysts and Registered Behavior Technicians.

Reimbursements should reflect the additional time that agencies will need to complete proper clinical training on their time as well as in the client's home. Reimbursement rate should reflect the time needed RN to train and delegate the task to the PAB worker.

From family members:

*Would like the Dept to consider funding "Neighbor Islands" from the beginning... Not as "An Afterthought" or "Later" or "Next Phase"... *According to Legislative Numbers used to calculate # of Legislators, we can do the same and fund approx. 30-35%.... from the GetGo...!!! *Recent example of the establishment of EIGHT Dental Centers on Oahu and ZERO on the "Neighbor Islands"until only recently...*

STATE RESPONSE:

As part of the comprehensive rate study, a number of variables and parameters are being considered. The study will consider differences in geographic regions (county) and additional requirements such as administrative costs of training or supporting a mentor. As noted in Comment #1, stakeholders will have several opportunities to provide feedback on the findings and rate model(s) through an informal public comment period and formal public notice and comment.

IMPACT ON WAIVER:

An amendment to the waiver will be submitted to the Centers for Medicare and Medicaid Services (CMS) once the rate study has been completed and decisions are made based on the findings and recommendations, as well as the public comments received.

21. COMMENT:

One recommendation was received to allow Associated Costs for the community events/activities.

STATE RESPONSE:

The State appreciates the comment but has determined that it will not incorporate Associated Costs into the rate study.

IMPACT ON WAIVER:

No change made to the waiver application.

22. COMMENT:

[ADH, CLS]: In groups of 1:4 how will rates work? How will hours be divvied?

STATE RESPONSE:

As part of the rate study, different rates will likely be established for a small group service in addition to the 1:1 service. For example, if a 1:1 waiver service has a cost of \$7.00 per quarter hour and a participant receives one hour; the service cost of \$28 would be billed for the participant who received the service. If one staff supported a small group of three participants for an hour, the 1:3 waiver service has a cost of \$5.00 per quarter hour per participant which would be \$15 per quarter hour ($\5.00×3). The agency would bill for each of the three participants at \$20 for the one hour of service for a total cost of \$60. Please note these are not actual rates, but used to illustrate the example.

IMPACT ON WAIVER:

No change made to the waiver application.

III. CONSUMER DIRECTION

23. COMMENT:

One commenter expressed concerns with the monitoring and oversight of consumer-directed arrangements, particularly on Neighbor Islands.

The underlying theme I see from the changes proposed is a bias and increase toward consumer directed services...a very real concern that we will be taking steps backwards if there is increase in consumer directed services without the essential oversight from DOH. Currently, outer island DDS offices are asked to operate on small budgets and minimal staffing, to add the responsibility of overseeing an increased number of CDPA's at any effective level would overburden an already stretched system. In my experience I rarely see CDPA as effective avenue for individuals to receive quality services and often see this system being abused, and it worries me to think this could be the direction families and individuals may be directed to go with this contract.

STATE RESPONSE:

The State agrees that consumer-directed arrangements must include monitoring and oversight to ensure that participants and families are successful, while also adhering to all federal, state and waiver requirements. DDD is receiving technical assistance from national experts in the area of consumer-direction, including a review of current practices for monitoring and oversight to identify areas to strengthen. The State intends to continue discussions with families, participants, case managers and other stakeholders related to this issue of monitoring and oversight. The Waiver Standards will include information about consumer-directed arrangements.

IMPACT ON WAIVER:

No changes made to the waiver application. Changes to the Consumer-Directed Manual and Waiver Standards will be distributed to stakeholders, including participants and families, case managers, and other partners.

24. COMMENT:

Comments were received from a number of family members regarding Agency with Choice and Supports Broker. These were two proposed services included in the waiver draft as Supportive Services for consumer-directed arrangements. Comments were overwhelmingly opposed to these services while one family member did indicate having the choice between options was acceptable and one family member indicated that Agency with Choice could assist with oversight and delegation required by nursing licensure. The following comments are representative of feedback received.

How is this different from PAB? If the agency is providing oversight on training, etc. it is similar to agency services.

Micromanaging consumer directed services

How much does this cost? Is it taken out of the budget for paying workers?

Supports Broker is helpful for Consumer Direct services if their fees do not cut into the amount paid to the CD workers. The fee of this agency should not exceed the agencies that are already licensed to provide PAB services. If it did, it will defeat the purpose of Family managed PAB and respite services that save the State Money. For example: If the pay for an agency is 26+ an hour split to \$11 + an hour for the worker or less for New hires. The rest goes to the agency. How much will it cost to have a broker to assist Families?

We just have to make sure that the agency for Consumer direct cost less so that the CD workers get paid a reasonable and competitive amount in comparison to the Agencies that Provide ADH, PAB, and similar licensed providers.

Please make provisions for PAB 2 individuals to have the choice of CDDA services, allowing the co-agency/agency w/ choice to provide qualified persons to oversee services (RNs & Behavioral Analysts, etc.)

As a parent that uses Consumer Directed Services I am a bit unsure about the proposed new services of a Supports Broker and Financial Management Services. I do not personally find it difficult or too time consuming to do the paperwork as the employer. I would like to have the option of continuing to do so, although I do understand that some families would prefer to "out source" this to someone else. Please consider giving us the option for both.

STATE RESPONSE:

The State acknowledges that there are a number of issues that require further research and outreach to determine if Agency with Choice would be a useful Financial Management Service model and whether Supports Brokers would be helpful to provide Information and Assistance. Family members were particularly interested in understanding how these services would be paid for and the potential impact on the budgets for services as they were seen as new costs to the program. In order to have additional time to better understand these models and potential impact and benefits of each, we are removing Agency with Choice and Supports Broker from the waiver application. An amendment to the waiver can be submitted at a future date if either or both of these models will be added.

IMPACT ON WAIVER:

All language related to Agency with Choice and Supports Broker was removed from Appendix C-1/C-3 Service Specifications and Appendix E Participant Direction.

IV. WAIVER STANDARDS AND PROCESSES

The State received a large number of comments related to processes, utilization review, authorization and standards that support the implementation of the waiver.

A. WAIVER STANDARDS

25. COMMENT:

One provider recommended that parameters and guidelines for use of volunteers within an ADH program be addressed in the Waiver Standards.

STATE RESPONSE:

The State appreciates the recommendation and will consider this with the Waiver Standards revisions. Stakeholder input will be obtained and providers will be asked to supply information for analysis.

IMPACT ON WAIVER:

No changes made to the waiver application.

B. TIMELINE REQUIREMENTS PROCESS

26. COMMENT:

One stakeholder requested that "time flexibility" be given for Neighbor Islands and designated rural Oahu areas.

**Placing either into the CMS Final Ruling, DOH Administrative Rules section or even the Hi Admin Rules (HAR). I would suggest either: (5) Five Business Days or (7) Seven Calendar Days. We are saddled with various constraints...mostly physical. Time & Distance Lags. Lack of Equal Technology (accumulated). Lack of access to Equal Technology, unavailable due to Location, Ownership of, Corp concentration on Oahu, etc. "Unable to Locate, Please Send AGAIN..."Main concerns here are federal (CMS) & DOH Department Compliance issues re: Deadlines, etc. Many a time, Employees are required to travel 2-3 HOURS to see a Client for Signatures, etc. "Overzealous Employees" expect Neighbor Island & Rural Oahu Clients AND Gov't Employees to comply or face "dire" consequences such as "Loss of Services", "Loss of Income" until the next time period or more. Therefore, Clients & Employees "DROP EVERYTHING" to comply...very disruptive. We can also apply this to Contractual situations between Neighbor Islands & Rural Oahu to Urban Honolulu. Precedence: Even Real Estate Contracts allow for these Time & Distance consideration & situations.*

STATE RESPONSE:

The State appreciates the commenter's point of view and suggestions for changes to the process of assuring paperwork is received within required timelines while allowing for additional time needed for participants and families living in rural areas. This suggestion will be forwarded to the Case Management Branch to identify ways to ensure

timeframes are met, such as the 365-day CMS requirement for completing the Individualized Service Plan, while allowing sufficient time for participants and families living in rural areas to complete any required documents.

IMPACT ON WAIVER:

No changes to the waiver application.

C. ADVERSE EVENT REPORTING (AER) PROCESS

27. COMMENT:

One stakeholder requested clarification on Adverse Event Reporting and offered a recommendation for the DOH/DDD Policy & Procedure.

It has been [our] experience across all islands that there has been an inconsistency in who reports an AER. (Adverse Event Reporting). (Recommendation): Please clarify who's responsibility is to complete and report an AER and under what circumstances.

Here at [our agency], we take behavior intervention and the rights of our clients very seriously....However, there are times, to protect the safety of a client or others, which approved restraints may be a part of a client's crisis plan, having followed all necessary avenues to be approved (doctor's approval/order). (Recommendation): An AER only be required for the use of a restraint that may have been used for the first time in order to maintain the safety of a client or those around him/her, classifying it as an adverse event. If a client's crisis plan already has an authorized and ordered form of restraint, and there is no injury associated with the implementation, then it is our recommendation that an AER will not need to be filed.

STATE RESPONSE:

The State appreciates the stakeholder's input and recommendations. The DOH/DDD Policy & Procedure for Adverse Event Reporting is being revised and once approved by the DD Division Administrator, information will be disseminated to all providers. The P&P will specify the responsibility for AER reporting, the circumstances under which an AER will be required, and how the use of restraints interfaces with AER reporting.

DOH/DDD is also developing policies and procedures (P&P) for Positive Behavior Supports and Use of Restraints, Seclusion, and Restrictive Interventions. Once the P&Ps are finalized and signed by the DD Division Administrator, information will be disseminated to all providers.

IMPACT ON WAIVER:

No changes to the waiver application.

D. AUTHORIZATION OF SERVICES PROCESS

28. COMMENT:

A number of comments related to different services focused on the need for authorizations to be flexible so participants can choose from the array in any given day and receive timely action for participant needs.

[Discovery & Career Planning]: Justification for long term support. Can hours increase to develop career path?

Will other service hours be flexible to support employment?

Participant work schedule may change so other services need to be flexible.

If problems arise, can additional hours be given quickly? This often requires immediate attention and waiting for the 20th of the following month may not be successful in keeping the job.

STATE RESPONSE:

The State acknowledges that flexibility of authorizations will be critical to ensuring participants have choice among services and places to receive those services. The DOH/DDD is working toward developing a new information technology solution for case management that will include designing a more efficient service authorization process.

IMPACT ON WAIVER:

No changes made to the waiver application.

29. COMMENT:

Commenters posed questions related to how services would be authorized in order to ensure timely access and availability of the array of services.

(Recommendation): we would like to recommend that the DOH-DDD re-examine the current process for authorizing a client to receive Training and Consultation Services...Done correctly, with the guidance of a licensed professional, the Training and Consultation Service can be a very effective and time limited service, ensuring the health and safety of our clients and their circle of supports. Given the high rates of behavioral needs within the population that we serve, we believe that access should be made readily available to clients and their caregivers.

How will hours for DCP and Individual Employment Supports (IES) be determined?

STATE RESPONSE:

As part of the Waiver Standards workgroup, the authorization process for Training & Consultation has been discussed and suggestions have been made by the stakeholders. We are reviewing the current process to identify opportunities to streamline initial

access while also requiring accountability by the T&C professional to deliver services in a timely manner. Waiver Standards will be revised.

Hours for DCP and IES will be determined through the person-centered planning process and documented in the Individualized Service Plan (ISP).

IMPACT ON WAIVER:

No changes made to the waiver application.

E. CURRENT PROVIDER TO ADD SERVICE(S) PROCESS

30. COMMENT:

There were multiple questions about the process for an existing waiver provider to add a service to its array. The following are representative of the issues raised.

From providers:

Current providers need to submit a RFP for each service that they would like to add to their existing menu. Perhaps existing providers would have a different process maybe shorter that would take into consideration previous audits and current services that are already being provided. This process is very time consuming and if there was a different way to apply for services this may be helpful to both the state and providers.

Since there are a number of services, will an existing agency such as ours have to re-apply to provide each one? Are we going to have to apply for CLS?

Are all agencies able to do this work under the new waiver or those who have completed the employment application process?

General Question: which of the new services will the providers need to apply for?

Are all agencies able to provide Discovery & Career Planning and Individual Employment Supports?

From family members:

Are various Providers supporting & offering ALL the services listed or can they pick & choose?

STATE RESPONSE:

The State appreciates the comments and suggestions for streamlining the process to add services for current providers. As part of the Waiver Standards revisions project, this process will be reviewed and changes will be made so interested providers who are in good standing with program requirements can use a shortened application process to receive approval to add services. This will assist in increasing the pool of providers for participants to choose and access.

PUBLIC COMMENTS FOR 1915(c) WAIVER RENEWAL

IMPACT ON WAIVER:

No changes made to the waiver. Revisions will be made to the Waiver Standards and the process for providers to apply to add a service to their array.

V. COMMUNITY INTEGRATION AND CMS FINAL RULE

31. COMMENT:

Several general questions were posed by stakeholders related to the waiver services and implementation of the CMS Final Rule.

As an agency are we moving away from providing services within out facility to either the home or community?

What is the assessment tool for this annual event to determine if participant can receive services in an integrated setting?

Will each participant have community integration and employment goals?

STATE RESPONSE:

My Choice My Way (MCMW) is Hawaii's State Transition Plan and determines the activities and tools the waiver will include for assessing providers' compliance with the Final Rule, as well as remediation activities that may be required. In general, the CMS Final Rule does not dictate whether a particular type of setting can provide Medicaid waiver services; CMS requires that any setting must fully comply with the Final Rule by the end of the transition period in March 2019. Each provider agency must evaluate its current service delivery model for compliance with the Final Rule. Some provider agencies may decide to move from specific settings to providing all services in the home and community as the commenter had asked. All ADH programs currently providing I/DD waiver services are categorized as less than full compliance and are required to implement agency transition plans to remediate areas to comply with the Final Rule. Further information will be forthcoming in the near future from MCMW.

We do not expect that every waiver participant will have both community integration and employment goals as there are participants who may choose not to work. The State expects that each participant will have a community integration goal to achieve his/her personal level of desired community participation and engagement.

IMPACT ON WAIVER:

No changes made to the waiver application.

32. COMMENT:

In the likelihood that more emphasis on community integration will produce an increase in changes of community settings for individuals (new residence, revised day program schedules, work training and employment settings, transportation, etc.) will the new Waiver accommodate better crisis intervention planning - including better understanding and training in recognizing crisis triggers and early intervention - for individuals, families and community setting providers?

Further, can crisis intervention planning become mandatory in the ISP (Individual Service Plan) Process for all individuals?

STATE RESPONSE:

The State agrees with the commenter that crisis planning can be strengthened for individuals who may experience behavioral challenges. The State will continue to work with individuals, families, caregivers, and community partners to review current practices and receive input on ways to strengthen the system of supports to improve crisis planning at the individual and service levels.

IMPACT ON WAIVER:

No changes made to the waiver application.

33. COMMENT:

On family member commented:

While funding limited, mastering and/or fulfilling [my loved one's] ISP (Individual Service Plan) goals have become somewhat challenging...we ask that the new Contract doesn't include changes that would affect services [my loved one currently has...if additional funds become available, it can help [my loved one] to reach most of the goals in the ISP that includes more participation in the community and some enjoyment with various hobbies.

STATE RESPONSE:

Thank you for your comment. The goal is to enhance and improve services currently available to waiver participants. The new service array and rates, once in place, are designed to expand possibilities and opportunities for participation in the community, including hobbies and other community activities.

IMPACT ON WAIVER:

No changes made to the waiver application.

VI. OTHER ISSUES

In addition to comments received about the waiver, some additional feedback was received on other topics.

34. COMMENT:

Comments were received about Emergency Preparedness in the event of a disaster.

Waiver Emergency Services - Disagree with this comment of "Using Other States as "Best-Practice Models" Whether a Major Disaster or a Local or Family Emergency.

Note our General Comment: The State of Hawaii is the most Isolated State...The Big Island, on a National Scale, is ranked as the TOP County exposed to the most Number of Physical Disasters Being uniquely designated, we have the opportunity to display to the nation, that we can be INNOVATIVE & PROACTIVE in our Preparation Approaches...

Our Solutions & Approaches should begin with not just overt Civil Defense/FEMA responses, but coordinated with Health Agencies (Federal & State), Medical, Pharmaceutical and Military related Industries...utilizing ALL Asset available...Other States can immediately mobilize their own plus Other States resources to address Disaster, as well as, attending "minor emergencies"...

We should be able to envision our OWN Solutions...!!! Why Not..!?! Our Neighbor Islands are NOT "outlying regions of the State of Hawaii" we are an Integral Part of Hawaii...not to be dismissed as minimal assets... Thank you for your patience & understanding...

STATE RESPONSE:

Waiver Emergency Services are used to support a participant experiencing an active behavioral or psychological crisis and are not used for addressing the writer's concern. However, the points raised by the commenter are relevant and highlight the need for system-wide approaches to emergency preparedness with special attention to vulnerable populations, such as the participants of the waiver. The DOH/DDD supports efforts such as the Feeling Safe Being Safe training program that is done by individuals with I/DD for others with I/DD to learn about emergency preparedness and assemble a kit. Also, each participant's ISP includes an emergency response in the case of situations such as natural disasters. The DOH/DDD and DHS/MQD are involved in state-level planning for emergency response.

IMPACT ON WAIVER:

No changes made to the waiver application.

35. COMMENT:

Two comments identified the need for more resource development of residential options, particularly on the Neighbor Islands.

Hybrid or Combination Homes or Centers

Oahu may be able to financially support all the various type of Homes

Neighbor Islands have lesser numbers of Clients, spread more thinly...

Financially not as feasible to have only Stand-alone Facilities...

Please allow some type of Hybrid or Combination Homes, Centers, Intermediate Facilities.

Fund ONE for the Neighbor Islands (we can share the facility)

One Hybrid type each, for Big Island, Kauai or Maui; so ALL Levels of Service are available, not only for Oahu accessibility

The concern here, as the population increases, the Big Island for example, the Infrastructure needs to be in place, up & running, actively servicing ALL Islands to accommodate the greater numbers coming upon us...

Sometimes, for safety and discipline, the participant must have a place that boundaries are enforced from time to time to maintain a better behavior that is apart from the home. These services should be contracted by the Department of Health and must be funded perpetually in support of the increasing number of dual diagnosed Developmentally Disabled population.

STATE RESPONSE:

The State agrees with the commenters that it is an ongoing need to develop an array of residential options to support individuals and their families, including on the Neighbor Islands. The DOH/DDD and DHS/MQD will continue to develop options in the more rural areas of the state including to identify and develop partnerships with other housing agencies, local communities and other stakeholders.

IMPACT ON WAIVER:

No changes made to the waiver application.

36. COMMENT:

One commenter provided input on coordination of services with medical, health plan, and psychiatric services.

Psychiatric Services are severely limited on the Neighbor Islands, their outreach programs end up being done by APRNs, etc. therefore, Analyses & Assessments are even more limiting...can the Psychiatric Medical Association step up & coordinate with you?

Another program or system that is failing their members is Medicare/Medicaid. My [loved one] needs a psychiatrist that will manage medication. We have been asking for a doctor for 4 years with absolutely no success and very little concern. They would want me to be silent and to walk away. I am my [loved one's] advocate who needs me to speak for [him/her].

STATE RESPONSE:

Thank you for sharing these experiences about coordinating health plan services and the additional challenges on a neighbor island. We are following up with the commenter individually through our Medicaid ombudsman and case manager.

IMPACT ON WAIVER:

No changes made to the waiver application.

37. COMMENT:

One stakeholder offered a suggestion for workforce development:

We should have a campaign for skilled nurses, CNA's and Families who are able to provide care, to start a home based community care for our population on all islands.

STATE RESPONSE:

Thank you for this suggestion. We agree with the commenter that is an ongoing need to develop a skilled workforce. We will explore this suggestion with our stakeholders and community partners.

IMPACT ON WAIVER:

No changes made to the waiver application.

38. COMMENT:

The growing concern for poor staffing of Case Managers is alarming! Please see to it that the positions are more adequately filled in order to ensure that the services available and needed are made available by having enough case managers to authorize and implement them.

STATE RESPONSE:

The State appreciates the feedback and is working actively to fill any vacant positions. Case management positions are allocated by the legislature and the DOH/DDD was recently funded for one additional position on the Big Island in the Hilo office.

IMPACT ON WAIVER:

No changes made to the waiver application.

VII. GENERAL

39. COMMENT:

From family members:

Thank you for your time in reading my input and hearing my concerns. I am thankful for the time and energy that is being put into the Medicaid Home and Community-Based Services Waiver.

I hope that that my input will make a little or a big difference in alleviating the challenges that we are facing as a family to keep our loved ones in our homes.

From providers:

Having said this, I also want to express how excited I am at the opportunities coming to those we serve with the new service options.

Thank you for an inclusive process and for pushing the boundaries here. I appreciate that this waiver intends to wrap around the participant and its focus on employment.

STATE RESPONSE:

We greatly appreciate all of the people who took time to participate in the planning discussions, review the waiver application, and provide ideas and suggestions throughout the process. We look forward to continuing our partnership as we renew the waiver to support participants to have full lives in their communities with opportunities and possibilities.